DEBATES

OF THE

House of Commons,

From the Year 1667 to the Year 1694.

COLLECTED BY THE

Honble ANCHITELL GREY, Efq;

WHO WAS

Thirty Years Member for the Town of DERBY;

CHAIRMAN of Several COMMITTEES;

AND

Decyphered COLEMAN'S LETTERS for the Use of the House.

In TEN VOLUMES.

VOLUME VIII.

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From the Year 1667 to the Year 1694.

Monday, November 15, 1680.

On the Libel reflecting upon Sir Edward Dering *.

ANEWAY, the Printer, at the Bar. I received it from Symonds and Lee, Bookfellers. Symonds fays, "He had a hand in putting it out to print, and received it from Captain Yarrington's own hand, and will stand by it."

Captain Yarrington.] I own that I delivered a Copy of it to Symonds, but was not the author of it; but came to it by means of Dr Tongue. I saw him write some part of it; he delivered it to me with his own hands, and I know not any profit Tongue had by it. After the Sham-Plot came on so fast, I was speaking of Coleman's Letters, " and that at fuch a Place there were Copies, and they were given out for money." He defired me to use my interest for a Copy. I saw Symonds write the Copy, and gave him content for it. (He produces the very Original in his hand.) When I had it from him, I showed the Original to several Members, and they were zealous to have it made known to the Nation. Dr Tongue was joyful at the receipt of the Copy, and defired me to leave it with him. At length he finished these Animadverfions. He bid me drop them in any Bookfeller's Shop, that he might print their. I did not think to give any offence, and Dr Tongue did it with all Candour and Sincerity. It was a great trouble to me when I heard Mr Treby's Reputation injured. He withdrew:

Mr Treby.] Tarrington has pretended his care of the Protestant Religion, and of my self, but I believe he has taken little care of either; for he has printed the Letters false, and the Letters are as untrue as the Resections he has made upon them. I never did communicate any Pa-

Vol. VIII. B. 433, &c.

per I was entrusted with from the House. I have resisted all importunities. When I went the Circuit, I thought it best to put the Papers into a friend's hand; he was my good friend, but usque ad aras. I would enquire from whence that next fellow, betwixt Somers and the Writer, had it. I believe you have the same impatience as I have to clear the matter.

Captain Yarrington was called in again, when the Speaker asked from what Person the Scrivener, or Stationer, in the Temple had the Original? He said, "That Dr Tongue was the author of the whole, every word, and (poor Gentleman!) when he had it, he thought he had a second life—The Bookseller did in gratitude give me something. It was Symonds." He withdrew.

Sir Edward Dering.] No man can fit down under fuch a Reproach as this Libel casts upon me. You may judge the whole of the Libel by the parts. then be read that part which reflects upon himself.) In the last Long Parliament, there were two Members *expelled the House for being Papists, and they were not in the Plot, and it was for their honour. Such Members. fo reproached, ought to be expelled, or vindicated. If there be the least suspicion upon me, I am ready to lie at the Door of the House, and to be trod on, as in the primitive times. I know not in my whole life, from my Baptism, that I have deviated from the Protestant Religion. My father has written for the Protestant Religion, and bred me up strictly in it. Since I came to ferve the King, my conversation has been fuch. I think, without breach of my own modesty, I may fay, if I had been but lukewarm in the Protestant Religion, I might not have been in fuch a condition as now I am in. In the Sham-Plot, which the Lords in the Tower did beget, and Mrs Cellier brought into the World, there were not above thirty persons in that Catalogue named, and it was my misfortune to have two of my fons in that Sham-Plot. I have deserved very ill from the Papists to shame my two sons. As to my own Reputation, I shall leave it with you. I never

^{*} Sir Thomas Strickland and Sir Solomon Swale. See Vol. IV. p. 188. and Vol. VI. p. 107.

owned Popery so much as to be a Religion. As for the Printing-trade, it is like robbing, not altogether done for malice, but for reward. And as for Captain Yarrington, I never saw him before. Will you suffer him, for the good of the Nation, to asperse your Members? This is a sad case, that a man's reputation should be thus blasted, and the person to say, he had the Libel from another man. If you think me rotten at the heart, and to leave God and the World for Preferment, dispose of me as you please. It is as justly incumbent upon you to punish criminals, as to acquit the innocent. I humbly crave reparation of the injuries done me, as large as the aspersion; and for the method of it, I humbly submit it to the pleasure of the House.

Sir Christopher Musgrave.] You are passing a Vote for clearing the Honour of your Member, but it would be a greater Honour to him to have the matter clearly stated first. I am satisfied that I think Yarrington abuses you, and I would have him kept in custody, and he will clear the matter. We cannot do justice without doors, unless we do it within. I would send for Dr Tongue to attend you, to give an account of this Libel.

Sir Thomas Clarges.] I would do fomething for vindication of your Member, and make fome Vote. And, to prevent the like abuse for the future, I would appoint a Committee to examine all the matter, and likewise particularly Dr Tongue.

Colonel Birch.] Let Dr Tongue be what he will, I would have him brought to the Bar, and Yarrington too, and out of them both you may be fully informed.

Sir Edward Dering.] I do not believe, whether Dr Tongue confesses or denies the Libel, that it will lessen your opinion of him.

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Sir Robert Clayton.] If Dr Tongue comes to the Bar, how will the thing be extenuated? As to your Member, if you should be prorogued, and you pass no Vote in vindication of your Member, the aspersion remains, and your Member is not vindicated.

Mr Treby.] I would not have it voted, "That the

Paper is all false and scandalous," for it calls Sir Edward

Dering " a learned and judicious Gentleman."

Resolved. That all the reflective parts of the Pamphlet upon Sir Edward Dering, a Member of this House, are false, scandalous, and libellous.

[Ordered, That Dr Tongue have Notice to attend this House

to-morrow morning.

Mr Yarrington, Mr Symonds, &c. were ordered into Custody of the Serjeant; and Richard Janeway was discharged, paying his Fees, and being reprimanded.]

[November 16, omitted *.]

Wednesday, November 17.

Debate on his Majesty's Message relating to Tangier +.

Sir John Hotham.] When I consider this House, congregated of fuch persons that the choice has pleased every one but our direct enemies; when I consider such a House, brought together from all parts by Petition for their fitting; not only the eyes of the Kingdom, but all the World, are upon them. If the wisdom of this House has turned the affairs of Christendom, they have showed it particularly in the Bill of excluding the Duke. Our only wisdom now is to preserve our Wives and Children, Estates, and Religion, and all that is dear to us. If these are not Arguments to perfuade Gentlemen, I cannot hear better to be spoken to, nor do I know what to propose. But if it fare with other men as with me, I am not able to utter any thing to fecure us after this defeat of the Bill. But yet I would not lose courage, but rally up our thoughts, and the way to consider well what to do, is to adjourn till to-morrow, and let every man lay his hand upon his heart, and confider what to propose by that time.

Mr Trenchard. Never did the necessity of the Nation more call for your Counsel than now, there is such difficulty and consternation upon all Protestants. Let us therefore recollect our thoughts for some time, and I fe-

cond the Motion.

* It appears by the Journal, that ler's to be inserted in its Read; after which the House adjourned; where-

the only business done this day was which the House adjourned; where-the voting Sir Francis Wythens's by appearances were faved, and name to be razed out of the West-minster return, and Sir William Wal-† See Vol. VII. p. 471.

Sir William Jones.] Tangier is a Place of great moment, but I take the preservation of Religion to be far greater. For us to consider the preservation of Tangier now, is as if an enemy were landed in England, we should consult the preservation of Guildball, which would be an odd thing, and no way proportionable to the prefent occasion. We have a great danger near us, and if we are prevented in the prevention, let it fall where it ought. Tangier is no part of England, and for us to provide for it, as things stand now, is to weaken our own security. Tangier has a Popish Church. I have seen the Articles, when the Place was delivered to us, "That those Portuguese Priests belonging to that Church should be continued there during their lives." But as they died, others have been continued in their places. Whether Devotion, or the healthfulness of the Place, has increased them, I know not, but it is eighteen years fince these old Priests were left there, and I am informed that their number is not decreased; but that this should have been a seminary for Priests, might have been stopped, and not by Breach of Articles with Portugal. It is not long fince there was a Popish Governor * there, and they have had supplies from Ireland; I do not know of what complexion, but for ought I know, they are of the fame complexion with those of the Cathedral Church. I cannot calculate the charge required to support this Place, but I believe it must be a good sum of Money for this summer. So that we are not now disputing for a little sum of Money, but to raife an Army, and support it to endanger us. I have no aversion to provide for Tangier, but if we run to a greater preservation of it, than for our own danger, we shall strangely forget ourselves. Let us first look home; therefore I fecond the Motion, that we may recollect ourfelves, and not in a fullen way to fay, "We will give no Money for preservation of Tangier." I would not be understood to lay it aside, but, with some humble Answer, to give his Majesty Reasons why we cannot comply with his defires, and I hope he will hear us.

^{*} Lord Bellasis, at this time a Prisoner in the Tower.

Mr Hyde.] I will not trouble you on the Motion that has been made, but shall lay something before you, and I hope I shall be heard favourably. Jones has told you of the danger of giving Supply for Tangier. I know not what the Articles of Marriage were betwixt the King and Portugal, whether they have been kept or no; but as to the danger of its being supplied by Irish soldiers, for fear of Religion, whoever knows Ireland, knows that Army to be far from Popery (at which they laughed.) I submit it to you, whether to be laughed at, or answered, is most for the decency of the House. If taking the Oaths of Allegiance and Supremacy be a fecurity, I believe neither Officer nor Soldier but have taken them. Jones faid, "That the dangers here at home are greater, and this is as if we should provide for the Coast of Kent, when London is invested." I wish you were free from your fear. And he tells you, "That this is demanded at an unfeafonable time." But the King is at fo great a charge for this Place, that he cannot maintain it, and if you think it no matter whether it is best, after all the King's charge, if you think it not fit to keep it, in God's name let it go.

Mr Hampden. I I must begin as Jones did, " That Tangier is a Place of great importance, and in a fingle confideration not to be neglected." But you are taking it comparatively. I know not the condition of Tangier, but it is discoursed of abroad, that Douglas's Regiment is there. I know not what they are now, but they were taken for Papists when they came out of France. If it were an Argument in the House of Lords for throwing out the Bill for excluding the Duke, "That the Duke had the command of an Army in Scotland, and that there were fifteen Papists to one Protestant in Ireland, and that the Duke had the disposing of Officers in the Fleet and Army," and if he be Admiral of Tangier, if this be an Argument to take Tangier into your consideration, and if it be for your fervice to give Money for it, I hope you will confider where to place the Money. You are not now making Petitions of Grace, but of Right, whether as Protestants you will part with your Money before you have any prospect of security. But it will be said, "We must have a Trust somewhere;" but what fruits have you had of all the Money you have given? Have not things been worfe. and not better? Changes of Ministers have done nothing. I long to fee the time when Money will make the King great and glorious; but pray let us be fafe first, and give the King Reasons to convince him and all the World. If it must be Money, I would come to a plain bargain, and not be always fencing. I defire nothing but fecuring the Protestant Religion, and establishing the King upon the Throne of his Ancestors. Let this be once well done, and I am for giving Money. But what will become of all, unless you make it in a plain way of bargain? There must be a Trust somewhere, but not where the foundation of the diffidence has been laid. My Motion, on the whole, is, "That an Address be made to the King, humbly to represent to him the condition of the Kingdom, and that it is unfeafonable to take the Supply of Tangier into confideration."

Mr Harbord. I shall take the liberty to answer two points, which fell from Hyde. He faid, "That the Army in Ireland did confift of Protestants that had taken the Oaths, &c." Indeed they do fo, but not the Test against Popery. You are told, from Jones, "That the confideration of Tangier is a thing of great importance;" and there is no manner of doubt but it is of great use to England, and if loft, or abandoned, it may fall into fatal hands, if either into the French or the Moors. But no doubt Tangier is not only a feminary for Popish Priests, but for foldiers too. The Governor, Lord Bellasis, is a Papist; besides, at the same time, he was Governor of Hull, Lord Lieutenant of the West Riding of Yorkshire, and Captain of the Guard: And if fuch men be in command, by what Laws can you fecure yourfelves? Colonel Duncan, whose Regiment is now there, is a Papist; and no wonder that Hyde would have the House declare whether they will keep Tangier, or not. This may be of great importance, and I hope the House will be too B 4

wife to give fuch a Resolution; and it is not improbable that those soldiers may be brought hither, where we have too many already. But now this matter comes to be unseasonable, as Jones has told you. But pray why was the Parliament put off fo long, as if men would create a difference betwixt the King and his People? And then not only Tangier will be unfafe, but every individual man of us. I will part with my Blood and my Money, but not with my Birthright. Shall we be afraid to speak plain English now? I am for an Address to the King, as bold as Truth will give it leave with Good Manners, and to let the King fee that his fafety is here, and not in a Junto. You have been told (by Common Fame) of Arguments used against your Bill of Exclufion in the House of Lords, which I cannot but from my foul lament, that the Duke should be preferred before the King! The King's Dignity left to fecure the Duke! The King has done no hurt; he has broken no Law, but by his Ministers. The Duke has broken them; and as long as there is such a difference in numbers in the Lords House for the Duke's interest, the fafety of the Nation is here.

Sir Edward Dering. I did think this day's Debate was referved for a more public danger than Tangier. It is great, and greater than in the last week. The Queftion is, Whether you will answer the King, with all Duty, in what he demands of us? What Answer prefently to give, being not at all informed of the condition of Tangier, I do not know. If it really is at the Duke's disposal, and is a seminary for Popery, there is no reafon you should give Money to support it. What charge it is to the King at present, and what it will be for the future, or any thing else you please, you may be informed of from the Treasurer, or Secretary. It is Anfwer enough for the present, to the King's Demand, to consider of it, and then, Whether to give Money, or no? In two or three days time you may be able to take fuch measures as in justice and prudence you shall think fit, As for the Money, you are free where to place it. If

you will not trust them, trust any else you shall appoint, Pray move it so far as to bring the state of it before

you, and confider accordingly.

Colonel Birch.] I am always willing to hear any one rather than myfelf. I wish we were come to that, so far forth as to confider where we should place the Money, or to take a prospect of the condition of Tangier; but we are not ready for either of those. When we are ready, I will give you my share: But I am one of those that think our very lives are in danger. The Arguments I have heard of against the Bill of Exclusion, &c. in the Lords House; of the Duke at the head of an Army in Scotland (and the Government has been so altered there) the number of Papists in Ireland, and as Places have been, and generally are at the Duke's disposal, if ever it was a time to fpeak, it is now; and we must answer for our Trust. Therefore I humbly press it, as a duty, to let the King know what is amifs. There be many things which we cannot handsomely act, but may be done with honour and fafety when the King pleafes. Ever fince the breach of the Triple League, the defign has been to ruin Religion and Property. Every day this has been ripening upon us; and though the Parliament did what they could to prevent it, yet every little Officer of the Navy has been appointed by the Duke, and from one end of the Kingdom to the other the Duke is in fuch power, that if there be not a change, I will not confent to give one penny. It is not of this, or that, or t'other Minister, but the most zealous Protestants that can be picked out, must be put in their Places; and when you have represented it to the King, he knows only how to fecure you. I move, therefore, "That you will address the King, to represent the danger we are in, and to inform him, how the World stands at gaze for our fall."-They durst never do what they do, were we set right at Show the King the beginning of the malady, and intreat the King for an effectual cure.

Sir Thomas Player.] The last Parliament, I was the same man I am this, and so are the other Gentlemen

that serve for the City of London. We are for the Bill of excluding the Duke of York from the Succession, and for all other good things that have been before you. The City have chosen us again, in confirmation of their liking what we did. What I fay, is in the name of the greatest part of the Commonalty of the City of London; they will give Money, half they have, nay, all, upon fecuring their Religion and Liberties, and will trust God, and fet up again for another Estate: But they will not give a penny for Tangier, nor any thing elfe, till all be fecured. I will give you an instance why London cannot do any thing; they have felt the effects of the Papifts by the Fire, promoted by them, and by the great Guards kept up for the fecurity of the King and Kingdom, to the expence of an hundred thousand pounds. The City of London is the bulwark of the Protestant Religion. The first affault of the Papists will be London; and this is the reason why the City will not give Money, till they are delivered from the present circumstances of fear of Popery and a Popish Successor. The Duke is likely to be General of Scotland, and of the Irifh Papifts, and the English Papists are at his command; the Forts and Shipping are at his command too, or at his beck. What are all your Lieutenancies of London and the Country, not made by the King's inclination? The Justices of the Peace and Lieutenants are fitted to serve his turn, as an addition to his Power. And what can be inferred from this Power in the Duke, but that the Kingdom is in his hands, to make what King he pleases? What security, then, can we have? It is an ugly thing for me to fay, but, if this be fo, all the Gentlemen of this House must make their peace with him as well as they can. For my part, I will never do it; and I would addrefs the King," That for the fake of one man, he would not destroy three Kingdoms."

Mr Bennet.] I hear Money moved for to-day, to fave Tangier; and Motions have been, to make a Representation to the King, of the present State of the Nation. If we do so, the case we are in may be put in short thus:

You would prevent a Popish Successor by your Bill, and have tryed the Lords, and they have thrown it out, and you have had no fuccess: The next thing is, to reprefent to the King the prefent State of the Nation. you have been told of the Duke of York's Power, who has undermined the King in placing of Officers in all the Courts, and at the head of an Army, it was well moved, that you address the King, "Not to destroy three King-

doms for the fake of one man."

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Colonel Titus.] Whosoever speaks now of Tangier ought to do it with some apology. To talk of the condition of Tangier now, is like Nero, when Rome was on fire, to fiddle. Tangier is a place of confideration for Trade, and a Guard from Pirates, where our ships may retreat, and in due time there may be confideration had of it; but to consider of it now, is as if the Tower were like to be furprized, and we should consult of building a Castle at Greenwich. You have been moved to see the state of Tangier, what will relieve, and what maintain it. If it be in a good condition, you need not help it; if in a bad, we are not in a posture to defend ourselves. Pray let us confider our own condition; first, the Head, and then it will be natural to confider the Members of the Body. When we have confidered the building of Ships, then it is fit to dispose of Cabbins. We are afraid of a Popish Successor; all the rest is but a Comment upon that Text. never known, but when the King was of an opinion in Religion, the Kingdom was of that opinion. Hen. VIII. declared his Supremacy of the Church; the Kingdom did so too, and threw the Pope out of the Kingdom. Queen Mary burnt the Protestants, and the Kingdom did so too. In Edw. VI's time, Regis ad Exemplum they followed their leaders, and did as he did. Be it either in Popery or in Perfecution. A man has a quincy or a pleurefy, and his Physician tells him he will give him any remedy but letting blood: This is our case in a Popish Successor. In Edw. VI's time the Bishops were zealous for the Reformation, and gave good Testimony of it; and I am of opinion they would not in those days have thrown out fuch

fuch a Bill as we fent to the Lords. We know that the King is a good Protestant, but I hope he will not let the Protestant Religion die with him. If Edw. VI. had said, " I will do any thing for the Parliament, but my Sifter Mary must be my Successor," the Pope could not have advised better. And now you are about to raise Money for Tangier, the people are much beholden to you. If my stomach be foul, meat will not nourish me, but my disease; the stomach must be cleansed before we think of feeding. When we have enquired after the throwing out the Bill of Succession in the Lords House, and those that make a difference betwixt the two Houses, and have set a brand upon those that give ill advice to the King, those evil Counsellors, then it will be time to think of Tangier-Were you deceived but once—but you have been so often— 1,200,000l. [was given] for fetting out a Navy, and there was not a nail nor a hammer struck; the very holes remaining that the ships had got in the Dutch War, unrepaired. Money was given for a War with the French, and a shameful Peace made. Money was given to disband the Army, and it was employed to keep it up. If all this be not considered before you give more Money, it is strange. But I observe that we had never so many Admirals *, nor ever fewer ships to guard us. (Gentlemen laughing, he faid, I am afraid to repeat it again for fear of making you laugh.) Never fo many Treasurers*, and so little Money, nor ever so many Counsellors, and so little Safety. When these things are redressed, I am for the consideration of Tangier, and for giving Money; but till then, I move "That an Address may be made to his Majesty, to reprefent our prefent condition."

Lord Russel.] Nobody has been backwarder within these walls, I say, none has been backwarder to give Money, than myself; yet really where it appears that it ought to be given for support of the Government and the Protestant Religion, none shall be more forward; but I will never give Money for promoting of Popery. Though

^{*} Alluding to the Admiralty and Treasury being in Commission, which in those days was unusual,

Tangier

fangier be in danger of being lost, giving of Money for support of Tangier is giving of Money for Popery, as the chief Person that manages affairs is a Papist and a slave to the Pope, and as there are sixty-three against thirty-one for throwing out the Bill in the Lords House. If my Father had been one of the sixty-three, I should have thought him an enemy to the King and Kingdom. And now to talk of Tangier, when the Kingdom is sinking! Nothing now but the House of Commons is true to the King, and Religion. I have a conscience, and I hope if I may not live a Protestant, I shall die a Protestant. I think you are put in a good way, plainly to tell the

King why you cannot confider of Tangier.

Sir Henry Capel. What calls me up is what fell from Dering, viz. "That the King does not ask Money of you, but that you would confider Tangier at a Committee;" and that is Money. In the Long Parliament, usually the first Motion was for Money; but Dering should have considered that this is another Parliament that will have Grievances first considered, of which we have not yet so much as redreffed one. I had thought that fome Grievances would have been redressed in Council before Money had been spoken of. Justices of the Peace and Deputy Lieutenants are the same as the Duke put in, and I hear not in good hands. One time, a fword is running through a man; another, a knife is cutting his throat; let every man confider, when he goes to bed, at this rate what may become of him before morning. I wish the Bill of Exclusion had passed the Lords House as well as here; but it is not Parliamentary to take notice of what is done there; but I am startled that men near the King, who know the imperfection of the Kingdom, that we have no Alliances that will deal with us in the disorders we labour under, yet all to throw out the Bill at a blow! Would any man think that they should be of opinion to throw out the Bill, and give it no confideration? I would therefore show the King, that we will support him when we are fafe, but till then, no Money. Let us know the bargain how to be fafe, and in an Address we have a fair oportunity to shew the State of the Nation, and I would have

the Address drawn upon the Debate.

Sir Edward Dering.] I would rectify a mistake in Capel. If he had not looked upon me when he spoke, I should have thought he had not meant me. I take it that I never moved for a Committee to consider of Tangier, nor for Money. All I moved for was, to examine the

State of Tangier.

Mr Love. I am a Merchant, and all my Trade has moved in the Mediterranean Sea. I was bred there, and to are my children. I was fent hither to mind the Public, and now the Ship is finking, I shall not take care of my Cabbin. I have passed by Tangier—All men have admired at the expence laid out upon it, for it never was, nor ever will be, a place of Trade; it is fo mountainous a Territory, that little provision can be had by land. is near Tetuan and Sallee, and their Trade is great there to all Nations, and Tangier can never be made a place of Trade; and I know not what reason we have to be so fond of it, but from the product of Popish Counsels, to make this place impregnable, to have a continual War with Algiers, to occasion giving Money. Formerly I had Letters that gave me an account of this; but the Long Parliament would hear of no fuch things; but, all over, our Counsels are from Rome. Yesterday I saw a Letter from Rome, on the Exchange, that gave an account of the heads of the King's Speech this Parliament; it was dated the twenty first of October our style; one or two of the heads. I observed. This is to show you that your affairs are managed at Rome. In the Letter it is faid, "That the King had commanded the Parliament not to touch upon the Succession, nor to touch upon Lord Danby's Pardon, and that the King would not ask a penny of money." This confirms me, that if they first know at Rome what we are to do here, we may fee how our Counfels are managed. There is now at Tangier that notorious rogue Captain Tom, and though there is an accusation against him in the Council, yet he is fent to Tangier to command. Those Counsels that magnified Tangier at that rate, I could could give myself no account of, but this, that they would make a mole for fecuring of ships, now that England has had it eighteen years; and for ships of war it is not proper; it is fit for nothing but small vessels; and as they go forward with the mole, the fea will grow deeper and deeper, and will wash the mole away. Popish and French Counsels put the King upon these vast expences to impoverish the King, as they have done in the war with Algiers, on purpose to impoverish the Nation. Algiers lives by rapine and spoil. We were at Peace with them, and I had trade there for fome time—A Peace was made with them, and one Article was, "That they should not fearch English ships;" and they keep Articles well for Mahometans, but Italians had Commissions to ride with English Flags, and put some few English upon the ship; yet notwithstanding this, when they had expostulated with Sir John Narborough, they restored the ship. After this, "No ship must go to sea without Passes." But they imposed Passes upon us, which brought in ten thousand pounds a year to some Persons. you will fay, " How does this affect Tangier?" The King has been abused. Indeed, it may be said, "This is a Place for Convoys; would you have Tangier loft?" I fear nothing more than that it should fall into the French hands. If it could be made a trading place, I should be glad of it; but when we have Confederates to destroy the Power of France, we shall have no need of this of Tangier. The French had formerly but fixteen fail of men of war, fifty-five pieces of ordnance the greatest; and now they have above an hundred—And the dishonourable Peace we made for them! Had we fallen upon them when the Money was given for an actual War, we might have kept the Confederates together, and reduced their Power. If you fend for experienced and difinterested men, to give you their opinion of Tangier, they will tell you, that it will be more profit to the King to blow up the mole, than to fpend two hundred thousand pounds a year upon it. This Place is, as Mr Waller, in the Long Parliament, faid of the Navy, " but a fore armi

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arm to beg with." The Navy was a popular Afguiment to ask Money upon, and yet we see how it has been neglected: So may Tangier hereafter be lost, and there is an end of your Trade into the Streights. It is more for the interest of England to demolish it, than to keep it, nor dare the French land an Army to refortify it: They will be beaten out by the Moors, and will never go to the cost of it. I move, therefore, for an Address to his Ma-

jesty—as before.

Sir Thomas Lee.] I differ from Love, &c. I thought it was the fense of the House to preserve Tangier. Pray now consider what advantage those about the King will have. They will say, "Sir, save your Money for Tangier; and employ it at home." I would therefore represent to the King, "To desire him to do what is in his power to save Tangier: And then you will do what is in your power." It is no wonder that the news you are told of came from Italy, when the first Prorogation of this Parliament was known to Lord Stafford in the Tower before

it was known to the Privy Council.

Sir Francis Winnington.] I dare not hold my peace in this matter. As to Tangier, in its due and proper time you may take care of it, and in the mean time I hope the Counfellors about the King will take care that it be not fold. We know, the last Parliament, what was said about that; but methinks the word "Tangier" founds too narrow, when the welfare of the Kingdom concerns us all. But I hope the Bill thrown out in the Lords House will not lessen the union of good Protestants, nor their courage. In three Parliaments I have observed that I hardly ever faw a Bill of Trade, or other little matter, but the Lords would know your Reasons for it, at a Conference, before they threw it out; but this Bill was brought in to the Lords and read in one hour, and before they went to bed they threw it out. I remember, at the Council at Lambeth about preventing the mischief of a Popish Succeffor, where the Bishops met to do what they were bid, the product of that confultation was a Bill that, inflead of preventing a Popish Successor, did establish one; and the

the Bill against Popery, was for Popery, and if there was fuch a concurrence of the Bishops then, no wonder they were so forward to throw out this Bill now. The Bishop of St Asaph's Epitaph, at the top of his Will, was plain Popery, with all the trumpery of Popery upon his Monument. Poor man! he could not die till he had given affurance to the Papists that the Bishop died Popish. At University-College at Oxford, a Gentleman, inclinable to Popery, preached a notorious Popish Sermon, and the University reproved him for it. I hear, he is Tutor to a Member's Son of this House [Mr Hales;] so I do not wonder that that knot of men were against the Bill; and we shall know by the Protesters, who were for it in the Lords House. There was not one Expedient offered instead of the Bill, but "leaving a General without an Army, &c." Livy's History is a wife Book, where he discourses which is better, a Lion to be General of Hares, or a Hare General of Lions, and he thinks a Lion General of Hares. When we came hither first, it was with great apprehensions of Popery, which occasioned this Bill. Whenever the Popish Party fee they are like to have a Popish Successor, that will make that Party reftless. I would to God, the King heard the fincerity of the Debates of this House!—But there is a fort of people that inclose the King, that study nothing but to aggrandize themselves, and debase the Protestant Religion. I should have moved you before against such Counsellors, but I hope to do it before I go out. When thirty ships were voted, it was faid, "That an Englishman cannot speak against ships." But pray God fend the giving Money for Tangier is not the ruin of the Nation! Let us affure his Majesty, that, when affairs are upon a Protestant bottom, we will stand by him; but if we fall upon any thing against Popery, then we are fent away presently. The Plot depending, and the Parliament so wisely and deliberately prosecuting it, they were fent home for a year and a half. But let the World fee you will preserve the King, and the Protestant Religion. When that is done, and represented to the King, and that in the House of Lords there are Lord-Lieutenants Vol. VIII.

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that give Commissions of Deputies to a fort of men that top-up, who have neither fortunes, nor virtue;—and I will prove it, that a Lord-Lieutenant would not let a Post be stopped that carried Letters betwixt the Papists. If the Protestant Religion must preserve the King, I would have the World see, that, though we have lost our Bill in the Lords House, yet we have not lost our integrity and

courage.

Dr Perrot*.] I heard the Sermon spoken of preached by that Gentleman of University-College, at St Mary's. It gave offence to the University, and he was censured for it. If a man preach Sedition there, or false Doctrine, he is censured by Expulsion, or [ordered] to make public Recantation; he was no resident [Member] of the University, and to have expelled him would have been no punishment; but he was put upon his Recantation, and I hope there will remain no resection upon the University.

Mr Hales. I am called up by what fell from Winnington. I do acknowled this Gentleman to have been my Chaplain. I heard that he gave occasion of offence to the University by a foolish Sermon he preached; and as the University have punished him, I thought fit to punish him too. Before he came to my House, I discharged him my family, and I hope there will remain no reflec-

tions upon me.

Sir Leoline Jenkins*.] I have only one word to add. The Proceedings of the University against this Person, being a Non-resident, were by causing him to make Recantation of his Sermon, which was all they could do.

Sir John Guise. Two of University-College are Pa-

pifts, and in the Plot.

Sir William Temple +.] I rise only to return the Debate into it's proper Channel, diverted by accident about this Sermon at the University. I desire now we may come to some Resolution, which I take to be an Answer to the

† See his Memoirs, p. 352.

^{*} The two Members for that University.

Message from the King. I know it had been more fit for a man so new within these Walls as I am, to sit still, and I should not have troubled you, but upon some foreign confiderations that I am versed in, which may concern more this business of Tangier. Tangier has been alleged to be a matter of small consideration; and by others, "though of great consequence, yet it must give place to matters of greater moment." This Debate comes the more seasonable, being the matter of the Order of the Day, and you must come to some Result, unless something had happened to change that Order. I will fay one thing, and, in my opinion, the only thing, of Tangier; I take the place to be of no moment to England, though I believe it to be a good mole and fafe retreat from the Pirates of Algiers; but as to this conjuncture of Christendom, and the use we have of the Spanish Havens, they are of much more moment and confideration than Tangier. I should he glad, either that we never had it, or if it was by an Earthquake blown up, and the Spanish Ports would be much more useful. But one thing we are to consider; into whose hands it may fall. If the Moors had it, and we were fure they would keep it, I should not care two straws; but if it be not blown up, and the Fortifications demolished, I fear it's falling into the hands of France, and it would be of infinite confideration to them. I am afraid that, by our own conduct, we have not made ourfelves fit for what God has appointed us. If the French get Tangier, and make it the Block-house of the Mediterrancan, Algiers will be so many hounds in their hands, and they will let them loose, or restrain them, as they please, either upon Holland or us. Then, I take it, the brazen Head is opened, and will not speak more for England. They will take the Trade from England, and invite the Dutch, and though the Prince of Orange may interpose his interest for us, yet the States, being tempted to so great a thing as the Trade of the Mediterranean, will comply with the French. Now the Question is, What Answer you will give the King? I hear it faid, "This confideration of Tangier is as if Money was asked of us." I have

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always thought that there had been another use of Parliaments than the three mentioned, viz. " For the King to ask Advice of his People." "The Advice and Affiftance of the House" are the words of the King's Message; and though we answer not that point of "Affiftance," I am loth we should fay nothing to "Advice," unless that it is not now time, and we are not ready to give it. You have time enough to enter into the Debates of the State of the Kingdom, and to lay open the dangers we are in; but that fuch a thing should be grafted upon the confideration of Tangier, is like putting a strong Plant into a weak Stock. We are to make an Answer proper to the Message. I shall only say to the Bill you have lost in the Lords House, that you are very sensible of it, as I heard to-day; but I hope you will not be angry, and resent from the King the ill treatment you have received from the Lords; a thought of more moment than Tangier can be! The weight of all Christendom, as well as of England, hangs upon the fuccess of this Session of Parliament. I fpeak this with more ground, having fpent some time abroad. We cannot be lost in a day, but forty or fifty days may do things abroad never to be recovered. I conceive it a good pace made of great necessity to give the King Advice; but I should be loth you should give the King any fort of unkind Answer; for in the Meffage the King is kind in asking your Advice; therefore I would have nothing pass unkind from you. I take not upon me to know the Constitution of England, having spent most of my time abroad; but I think the King cannot always fave the Kingdom, but he may do much to ruin it; and though the Commons alone cannot fave the Kingdom, they may do much to ruin We are obliged to answer the King's Message; but whenever you go about an Address like a Remonstrance, whenever you do that, I hope it will not be upon the occasion of Tangier, but upon solemn Debate; and I move, "That you would now give the King an Answer as to his Message of Advice for Tangier only." Refolved,

Resolved, Nemine contradicente, That an humble Address be presented to his Majesty, to represent to his Majesty the dangerous State and Condition of the Kingdom, by reason of the fears and apprehensions of Popery, and a Popish Successor*.

And a Committee was appointed accordingly.]

Sir John Hotham. Now that our Bill is lost in the Lords House, you have nothing to justify yourselves but the printing Mr Coleman's Letters, in Mr Treby's hands. and what elfe relates to that matter; which I humbly move.

Mr Treby. When you order these Letters to be printed, I prefume you intend not to have abstracts, but ipsissima verba, for there are allegories in them, which must be interpreted. I will do it as fast as I can, but at the present I have the care of two Committees, that of Privileges, and the Tryals; but if you will have it done, I will work night and day.

Ordered, That Mr Treby do make his Report, in writing, on

Saturday next.]

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Mr Montagu.] It was not for want of zeal that I did not trouble you the last Debate. I am sensible of the miseries we lie under through the loss of our Bill in the Lords House—It has been always the Privilege of the House of Commons to use Common Fame as an Information of things. The best of Parliaments have done it, and the best of Kings have granted it. Common Fame fays, "That Lord Halifax + advised," and fince he has owned the Diffolution of the last Parliament. I think therefore, that in justice you can do no less than vote him an Enemy to the King and Kingdom, and address his Majesty, that he would be pleased to remove George Earl of Halifax from his Councils.

* These words are not in the Journal.

+ Created Marquess of Halifax in 1682, and foon after made Lord Privy Seal, and upon King James's Accession appointed Lord President of the Council; but upon refusing to consent to the Repeal of the

Test, he was dismissed from all his employments. In the Convention-Parliament he was chosen Speaker of the House of Lords, and was again made Lord Privy Seal by King William, but being attacked in Parliament in 1689, he quitted that post, and died in 1695. C 3 Mr Mr Colt.] I have heard as much as this in Common Fame, and that he hopes to be Governor of Ireland, and that he was an Advocate against that Bill we sent up to the Lords, upon which the safety of the King and Kingdom so much depends. I second the Motion, "That he may be declared an Enemy to the King and Kingdom," and with him another, Lord Chief Justice Scroggs. He disparaged the Evidence against Mrs Cellier, which you have declared good Evidence. I desire that his name may be for one.

Sir Nicholas Carew.] I would not have two Hares on foot at once. Lord Halifax fees that Popery will come

in, and he will turn. Pray remove him.

Mr Vernon.] I have heard that this Lord obstructed our Bill in the Lords House, and has showed how dangerous it was to remove the Duke from the Succession, considering he has an Army under his command in Scotland, and that three parts in sour are Papists in Ireland. I heard he should say, "That if the Lords would reject the Bill, he would engage, on his Honour, to bring in such a Proposition as would please the Parliament." I would rather have his head, than any Popish Lord's in the Tower.

Sir William Hickman.] You are now come to fome particulars against this Lord of what he should say in the Lords House. But is that Parliamentary, to take notice of what is said there? What he said was in the last Parliament, which is dissolved, and did he not withdraw from the Council since the Prorogations of this Parliament? Pray run not into such hasty Resolutions against this Lord, till things are proved against him.

Mr Montagu.] What has been faid of this Lord is upon Common Fame. I think he went away from Court in March, and same again in Section for Libing that

in March, and came again in September. I think that is time long enough for this Lord to have had a share of

the Prorogations.

Colonel Titus.] In this case, I cannot hold my peace. No man, I thought, was of firmer principles than this Lord was once of, nor could express them more upon several occasions. But I fear that he is mistaken that tells

you he withdrew. That he withdrew, is true; but I would it were true that he had done no mischief since he came. He that provokes me to draw my fword is to blame, but I am not. I am afraid that this great Lord did fend for the Duke out of Scotland, and I am afraid that no man has done more to render your Counfels ineffectual than this Lord. You are told, " It is not fit to accuse a man barely upon Common Fame." There is a great difference betwixt Common Fame and Rumour. Rumour is Vox Plebis, (the Vulgar,) but Common Fame is Vox Populi. Every body is convinced of it, and in his own mind he bears the conviction of it to be true. He is fufpected not only by common Characters but Actions. the best and most sedate times, Parliaments have always proceeded upon this of Common Fame. Hen. IV. was no weak Prince, and not much in awe of his Subjects, but the Lords and Commons represented to the King their defires that he would remove an Abbot from him, and another of his Bed-chamber: The King faid, "he knew no fault in them, but because they were odious to his people he would remove them." In Hen. VI's time, De la Pole, Duke of Suffolk, upon Common Fame that he was not a true man, came in to justify himself, and though some were of opinion he should not be committed, yet no man but that he should be removed. In the late King's time, all the knowing men of that time, Lord Strafford, Mr Majon, &c. were of opinion that Common Fame was a fufficient ground to address the King for the removal of a person. I am afraid that, in the case of this Lord, Common Fame is in the right, and therefore my opinion is, to address the King that he may be removed.

Sir William Temple.] There is an absolute necessity, for the good of the Nation and Kingdom, that there be an Union betwixt the King and his Parliament, else I should not have troubled you at this time. If this be the way, I cannot be informed at the first hearing. I know not what passes abroad, but from what I find here. You accuse, I find, upon Common Fame, and, it seems, this Lord, upon what has passed from him in the Lords House—(He

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excused

excused his mistake in that.) I speak then only to the For feven or eight years that I have been abroad, I know nothing. For four or five months I have not fpoken a word here, upon public occasions, to this Lord; fo that for the present I know not any thing of him; but formerly he was a man so different in principles from what I now hear faid, that I wonder at it. Common Fame I take to be a great aggravation of crimes, but it must come from Evidence of actions. I have no more to fay, but that I am tender of any thing that may happen of ill consequence to break the happy Union betwixt the King and you. And as I fay in this House, to induce the House to Union with the King, so I shall say to the King, when I have the honour of an occasion. But whether you will mention any Counsellors that have advised his Majesty ill, or whether you will defer it till the Address be drawn up, and then apply persons to

particular matters in it, I submit it to you.

Mr Harbord. I cannot but pity the condition of the Nation, when every man confesses that the sad condition of the Nation proceeds from evil Counfellors. I wonder to see every man cool, now a man is named; this is unbecoming an Englishman. I know not how Lord Halifax came to be an Earl (the King knows that) and therefore more capable to do harm. I am fatisfied in my conscience that I know he dissolved the last Parliament, and I can prove it. I blame not free Counsel to the King, but when Counsel was so boldly given by this Lord, and the Nation so near misfortune, he should be feldom trusted for future Counsel. Had not that Parliament been diffolved, Sir George Wakeman had not been faved, nor the King's Evidence reproached. By that Dissolution the King has been eighteen or twenty months in danger. I am ashamed to see this man have Advocates. Whoever is fo, deserves to appear at the Bar. He gave the King Counsel to dissolve the Parliament, and then he withdrew into the Country to do more mischief. I am ashamed of Advocates for him here. His Quality, Greatness, and Parts support and buoy up the Duke's interest at Court. I would

would have no such thing touched upon here of what passed from him in the Lords House, only what passed out of the House. This man takes the weight of three Kingdoms in his hand, and will frame notions of Expedients to cure the danger of the Nation. If this must pass, I fear the Nation will be lost; he and his Party have induced your ruin. I would therefore remove them, and then the King may see that his safety is not in artisice and tricks, but

in good Counfel.

Sir Christopher Musgrave. If men must be styled "Advocates" for a person, when they speak their mind freely in Parliament, and are denied liberty of Debate, you destroy the Constitution of the Government. Whilst I sit here, I hope I shall have my liberty. I have heard things faid this day that were never done in Parliament, for a Gentleman to take notice of what is faid in the Lords Houfe. You have been told the Arguments that this Lord used against the Bill of Exclusion, viz. "That the Duke is at the head of an Army in Scotland; that the Duke had a great interest in the Navy, and the Ports; and that in Ireland, two parts in three were Papists." And was it not faid, "That fixty-three were against thirty-one in the Lords House in throwing out that Bill?" Was this ever debated before in Parliament? Each House has liberty to retain or reject Bills as they please. You are now pleased to accuse this Lord, and a Gentleman tells you, "That it is the Common Fame, that he dissolved the last Parliament." I think that was ill Advice, and have always faid fo. What! is Common Fame, talked of in Coffee-houses, a sufficient Charge against a man? I would have greater Evidence than Common Fame to remove a man from the King's Council. And we have found by experience that fuch Addresses have not had good fuccess with the King. Against the Duke of Lauderdale you examined four Witnesses at the Bar, and several Members gave their Evidence. Where any body gives opinion in Council, circumstances must be confidered. Let proofs demonstrative be brought to the Bar, before I can give my consent to such a Motion.

Mr Harbord.] I should be to blame to call any man "an Advocate" for this Lord, that is not, but I did not call Musgrave so, for he spoke not in his defence. But to make an harangue or encomium on his person, that is to be an Advocate. It is his Counsel, not his Person, that gave occasion to this Debate. I did not speak of what he said in the Lords House, but his Counsels have been pernicious, and I would have him removed.

Mr Hampden.] Some of my Arguments have been spoker of; give me leave to repeat them. If the Duke's great power has been an Argument against your Bill, an Argument from Tangier is of as good force as the other. A man is not restrained in Arguments from Common Fame. He may have them from the Court of Requests, or any where. I did not draw my Arguments from the

Lords House.—(Imperfett.)

Sir Christopher Musgrave.] If Gentlemen in the House would have heard, I said nothing of Hampden's arguing from what was said in the Lords House. But some Gentlemen have repeated what was said in the Lords House. I am no "Advocate," and we ought fairly to

come to our Debate.

Colonel Birch.] That of being an Advocate for this Lord, I suppose, we shall hear no more of; every man may speak his reason here. Now the Question is, Whether this latter matter does agree with the former. You resolve to address to let the King know the diseases of the Kingdom, and many things the King may grant which may not be thought fit for you to ask. This Address is in its proper way, but before the Address be answered, you seem to put off the hopes of an Answer. There is nothing so mischievous as not to be united. The King knows the fore place, and he may redress it. I would adjourn three or four days, to see the issue of your Address, before you come to this Vote.

Sir Francis Winnington.] The honour of the House is concerned in this Debate, and it is a good maxim, that Common Fame is not to be lost in this House. You are not condemning this Lord in a judicial way, but like

a Jury-As in the case of the Spencers in Edw. II.'s time. I can take notice in the Lords Journal, upon the Protestations, who were for, and who against, a thing; that may be viewed by any man. You are going about to enquire into the Actions of Counfellors, and the Question is, Whether this Minister of State did advise the King to diffolve the Parliament? And he does acknowlege it, and that is his Crime. Though you have not Evidence to convict him, yet Common Fame is sufficient to accuse. This Lord gave the King advice to break the Parliament; that I have heard in Town and Country; and we must not hear what is faid! This is like "Abhorring." hear of the Duke's Power in Scotland, Ireland, and here. (and from thence that Lord makes conclusions against the Bill of Exclusion,) I hear enough for Common Fame, At this rate, we shall not hear any thing. But will any man fay, for the honour of this Lord, that he did not fay fo? But by this reason, we must, and we must not, hear. I have heard abroad what this Lord faid in the Lords House, and that he dissolved the Parliament. I have heard it once faid here, upon another occasion, "That if a man have an unlucky hand at cards, one would not bet on his head *." But now this man will fave his friend the Duke, and lose his Religion. Rumour is res fine teste, but Common Fame is Vox Populi, as in the case of the Duke of Buckingham. But at this time of day, it is strange to distinguish the matter in this Lord's case. It may be, the King will tell us we are misinformed; then all is well. Great men had great purses, and got off in the last Long Parliament; the Duke of Buckingham had none, and was fent away when they addressed against him. would propose this for your Question, "That it is the opinion of this House that this Lord is an evil Counsellor, and an Enemy to the King and Kingdom, and that we defire him to be removed from his Majesty and his Councils for ever."

^{*} Sir Robert Atkins, on Lord Clarendan.

Sir Thomas Meres.] Here is mention made of the Power of the Duke, and that that was an Argument from Lord Halifax to throw out the Bill in the Lords House. I thought I had reason to tell that Lord, "If the Duke had such Power, it was time to take it out of his hands." The Vote proposed to pass is of great weight, and will be a blast to any man; therefore pass it gravely and weightily, as a foundation of your Address, for the honour of the House.

Mr Trenchard.] We ground this Vote upon the effects of the Prorogation. We know not who did it, but we fee who is near the King, and the Advice may be reasona-

bly attributed to him.

Colonel Titus.] Sir Richard Temple remembers Records for his turn, but none for ours. He forgets that, 5 Hen. IV, to the Address of the Parliament for the removal of some persons near the King, the Answer is plain: "The King sees no fault in them, but because they are odious to his people he will remove them." The Duke of Suffolk was charged upon Common Fame, and he had

nothing to do in the Councils, &c.

Mr Finch. The justice I owe to this person makes me speak. Till this occasion, this Lord's fame has been fufficiently known as an affertor of the Liberties of the Subject, and of the Protestant Religion; that there has been no occasion to say any thing of him here. I will not fay how necessary it was for Hen. IV, who was an Usurper, to gratify his people's defires in removing persons from him. If the King will remove a person from his Presence and Councils upon Common Fame, it behoves the Commons to be very certain what they do. Besides, Common Fame can have no other ground but by witnesses. You have voted Sir Edward Dering reparation, who was fcandalized in a Pamphlet, and mens tongues you go about to correct. I know not how far what I have heard fay to-day may intrench upon the Lords Privileges. To remove a Lord from the King's Prefence, is to remove him from Parliament, and that is to heavy a condemnation, that it ought to be upon good proof.

The Lords Journal for Protestation is no Record, and we are not to take notice of it. You are not to pass Judgment upon this Lord, before any one man af-

firm the charge upon his own knowlege.

Sir Thomas Thynne.* The Vote proposed is a condemnation. Without any proof, you judge this Lord. It is faid, "That he advised the Prorogation of the last Parliament;" but Common Fame fays the contrary. He was in the Country. Let Common Fame be for him

as well as against him.

Mr Powle.] I have always been of opinion, and am fo now, that Common Fame is a ground to accuse, but whether is this now feafonable?—The Question is fingly there. You have voted an Address to the King, and, it may be, the King will do fomething to reform this, which I would not have you reform before-hand. Perhaps both what you find in Court and in Westminster-Hall may be obnoxious. When you have received the King's Anfwer to your Address, I will go as high as any man. The Vote at the beginning of the day was Nemine contradicente, and I hope there will be no Division upon this occasion, which may produce great factions. Therefore I move you to adjourn this Debate.

Mr Godolphin +.] The good or ill fuccess of this Parliament is of great consequence, therefore I move to lay

this Debate aside.

* Created Lord Viscount Weymouth in 1682. From his younger brother is descended the present

+ Third Son of Sir Francis Godolphin (Governor of Scilly for King Charles) Ambassador to Holland in 1678, one of the Commissioners of the Treasury in 1679, &c. In 1684 he succeeded Sir Leoline Jenkins as Secretary of State, but foon after was appointed first Commis-fioner of the Treasury. The same year he was created Lord Godolphin, and on King James's Accession was declared Lord Chamberlain to the

was first Lord Commissioner of the Treasury, one of the Lords Justices, &c. and in the Reign of Queen Anne was constituted Lord High Treasurer of England. How well he discharged that important Truft, let the Annals of that Reign declare! In 1706 he was created Earl of Godolphin, and died in 1712, aged 67. Bishop Burnet's Character of him is as follows: " Godolphin was a younger brother of an ancient family in Cornwall, who had been bred about the King from a Page, and was now confideclared Lord Chamberlain to the dered, [in 1679,] as one of the a-Queen. After the Revolution, he blest men that belonged to the

Mr Hyde. I am against this summary way of Justice. because I do not know whose turn it may be next. If it should be my turn, I would take leave and kiss your hands. Common Fame to me feems not strong enough. I have had it from this Lord, that he did not advise the Prorogation of the last Parliament; and I may believe that, as well as others, that he advised the Dissolution of the last Parliament—Other people concurred as well as he, and some that were then in credit, and more likely to do it. To revenge one Counfel upon one Counfellor,

and let the rest escape, is unjust.

Sir John Hotham. Being concerned for the Bill that the Lords have thrown out, I put myself into company I do not usually keep. I did find that this Lord was the great occasion of throwing out this Bill. If we start such a man as this, and are afraid of him-He is a great Minister, and strikes with the great hammers. If we are afraid to do this, (I am convinced of the mischief he has done already) he may do yet more if he be near the King. The end is to lay this Debate afide, and then he will look as if he was innocent; but you have fufficient cause to address the King to remove this man from the Council; but not for the rest of the Question.

Sir Gilbert Gerrard. The diffolving the last Parliament, when the King's Person was in danger by the Plot

-nothing could be more pernicious.

The Question being put, That the Debate be adjourned, it passed in the Negative, 219 to 95.]

modestest man that was perhaps ever bred in a Court. He had a clear apprehension, and dispatched business with great method, and with so much temper, that he had no personal enemies: But his fience begot a jealoufy, which has hung long upon him. His notions were for the Court; but his uncorrupt and fincere way of manaesteem for him. He loved Gaming He was Father of the present Earl.

Court. He was the filentest and the most of any man of business I ever knew; and gave one reason for it, "because it delivered him from the obligation to talk much." He had true Principles of Religion and Virtue, and was free from all Vanity, and never heaped up Wealth: So that, all things being laid together, he was one of the worthieft and wifest men that has been employed in our time; and ging the concerns of the Treasury he has had much of the confidence created in all people a very high of four of our fucceeding Princes."

Resolved, That an Address be made to his Majesty, humbly to desire his Majesty to remove George Earl of Halifax from his Majesty's Presence and Councils for ever.

[And a Committee was appointed to draw it up.]

Thursday, November 18.

The Speaker.] Turberville has received his Pardon for Treason, in Answer to your Message to the King, but not according to your desire. His Pardon is "for all Treasons," but not "for Misdemeanors," so that he may as well lie in Prison and perish for "Misdemeanors" as be hanged for "Treason." Your Address is for "Treasons, Misdemeanors, and Felonies, &c."

Mr Fleetwood.] I move that Turberville may have fuch a Pardon as Lord Danby has, and it will be full

enough.

Sir Henry Capel.] I move that the Pardon may be openly read here, and that application may be made to the King, to cause all Pardons of the Evidence to be made full enough.

Sir Nicholas Carew.] I would not only address, "That the Pardon may be full," but I would take some notice

of the Attorney-General, and complain.

The Speaker.] If the Attorney-General draw a Pardon short of the Warrant he has from the Secretary, he is to blame; but if you enquire into it, I believe the Warrant is short.

Sir Leoline Jenkins.] I had the Honour of your Commands to the King about this Pardon, and I had it in writing, and the Warrant, by Order of Council, was, "for Treasons and Felonies." The Warrant was from the King in Council.

Colonel Titus.] Leaving "Misdemeanors" out of the Warrant looks like a thing concerted, and not by

chance.

Sir Thomas Player.] The King would not do this, but as he is persuaded by those about him. When we are disfolved (which I fear not) you shall have the Witnesses blasted in their Evidence, as they were formerly, and the Plot stifled.

stifled. I would address, that the Pardon may extend to all Misdemeanors.

Mr Harbord.] I would have a Committee of learned men to take care to fee that Dugdale's and Turberville's Pardons be perfect, that so there may be no Exceptions against them, when they come to give Evidence at the Tryals.

Sir Edward Dering.] I would not only confider the height of the Pardon, "for all Misdemeanors," but the breadth too, to come down to this time, that that may not

be trumped up upon them.

Sir Leoline Jenkins.] Mrs Cellier is to be tried to-morrow, and the Pardon cannot be dispatched in a day. I defire the directions of the House, that it may not be straitened in time.

The Speaker.] The Arraignment of Mrs Cellier is not to-morrow, for the Bill of Indictment must be found

first.

[Ordered, That an humble Address be made to his Majesty, to desire, that, in the several Pardons already granted upon the Address of this House, to such persons as have given Evidence to this House relating to the Popish Plot, his Majesty's Grace and Pardon may be extended to all Crimes and Misdemeanors whatsoever by them committed; and That to this time.]

Friday, November 19.

[Mr Serjeant Righy makes a special Report, from the Committee, of the Presentment of the Grand Jury for the County of Somerset] against the sitting of the Parliament, and their Thanks to his Majesty for recalling the Duke of York, &c.

Colonel Titus.] These Gentlemen show their zeal for Parliament by petitioning against the sitting of the Parliament, and their zeal against Popery by thanking his Majesty for recalling the Duke of York. We know an infected House by the red cross upon the door, and we may know Papists by their inclinations to the Duke. I would they would do as much for the Protestant Religion as they have done for Popery, and I should forgive them. Some of these Petitioners are leading men. I would have the Foreman of the Jury sent for, to give an account of

what

what they have done, and then you may confider from

what great hand all this comes.

Sir William Jones. I would have your Proceedings neither too broad nor too narrow. In no fort can I agree to fend for all the Jury. In a few days you will have occasions to fend into other Counties to enquire into Petitions of this nature. I would not fend for the Foreman, for you will find the worst men were set forward. I wish you may have affistance from some of your Members; if not, you may do it at a venture, the Foreman and some of the middle men. I believe this Address was prepared by some of the Gentlemen. Somersetshire is the place of my birth. I believe the Juries are men that have it not in them to frame such an Address. I believe it framed by others, and fent to them. I would fend for the Clerk of Affize. I am much misinformed if there was not care taken to prepare a Grand Jury, by the Under-Sheriff, for this purpose; and many of the Grand Jury were excused for disability: But if the Clerk of the Peace speak truth, more than ordinary care was taken to have a Jury for this purpose; and he may inform you of the management of it, and how Justices were taken off from the Bench for this purpose. I am informed, that two of the Grand Jury of Somersetshire are in town, Mr Thomas Ward and Mr Edward Strode; they may give you great light, and I humbly defire they may be fent for to the Committee.

Mr Powle.] I wish you would consider in this matter, to send for as few men as possible in Custody. I would enquire into the Officers that made the Returns of the Juries, which were afterwards altered, it seems, till they had men of a right complection. This the Clerk of Assize, or Clerk of the Peace, may probably inform you of, if in town; if not, they may be sent for. Get but an end, and then you may the better unravel the bot-

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Colonel Birch.] This is not your common use, to run to one or two of the Juries. Whom you do meddle with, bite through and through. These are they that Yo L. VIII.

are for the rifing Sun. Single out a few by a Bill; declare the crime, and the punishment. Pray consider of

it, before you go to too great a number.

Mr Harbord.] I know not what he means by "the rifing Sun." I am fure, this is rifing against Law. Either you must punish these men for what they have done, as a Breach of Privilege, or elfe you have no other power to do it. I think, fending for them is a better remedy than by Bill. We know the effect of Bills. I remember, in the last Parliament, Complaint was made of the Proceedings of Sheriffs. It is one of the Rights of the House to judge of false Returns of their Members. I have fearched Precedents, and I find that the House has inflicted punishment upon those that have broken their Privilege. I find, that a Sheriff of London, a great City, was forced to ride with his face to the horse's tail. Do something of this kind, and it will have more effect than any thing elfe you can do. As for the punishment of fending for persons in Custody by the Serjeant, it fignifies little; they find advocates to intercede for them in a thin House, early in the morning. Pray fend for a few, and those the most notorious offenders, and punish them accordingly.

Colonel Birch.] I shall explain myself, in what I said of "the rising Sun." Popery never can nor will grow but by absolute Government. And commonly people run into these things before, and then a Proclamation comes after. I move that you will send for a few of these men.

Mr Bennet.] I hope you will take notice of the Privy Counsellor whose province this County was under. (Mr Seymour.)

[The Foreman, and some others, of the Grand Jury, were

fent for in Custody.]

Sir Robert Clayton reports, from the Committee, the Address against Sir George Jeffreys *.

Sir John Trevor.] I think, there is something in the Address not agreeable to your Vote. In justice, the Address ought to consist of matter of fact, as proved di-

to

^{*} See it in the Journal.

rectly; next, the consequences of the fact; and last, your prayer thereupon. It says, "The complaint is of him as Chief Justice of Chester;" and you have not heard him as Chief Justice of Chester. I move that you would hear him.

Sir Robert Clayton.] The House ordered the Address as to matters which he did in his Recorder's place. "Chief Justice of Chester" is given him only as a Title, relating to that man, and he is not charged with Crimes relating to that Office.

[The Address was agreed to by the House, and was ordered to be presented to his Majesty by the Privy Counsellors.]

Mr Vernon.] I have Articles of Accusation of Crimes of a high nature against Mr Seymour. I think he is not here. I shall undertake to prove them. I move that he may be here to-morrow morning to answer, and his Charge will be brought in. To charge him, and not present, I know not the method of Parliament, but we have Articles ready.

Mr Pilkington.] I desire that he may be here to-mor-

row to answer his Charge.

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[Ordered, That Edward Seymour, Esquire, do attend the service of this House, in his Place, to-morrow morning.]

Sir Richard Graham.] The Papists are enemies to all mankind, but those of their own persuasion—In the Courts of Judicature, they have made it their business to decry the Plot; the next step you make, I hope, will be to purge the Courts of Judicature, else neither our Religion nor Property can be safe. They may wound us, and we not know who strikes us, like the wounded way-faring man in the Gospel betwixt ferusalem and fericho; the Levite regarded him not, but the good Samaritan poured oil into his wounds, and gave him money. We are that good Samaritan—And I doubt not, if you represent it to the King, he will be as ready to redress, as you to represent. I would address the King, "That Mr Zeile*

He had that morning delivered in an Information in writing relating to the Popish Plot.

may have his Pardon, to qualify him to be good Evidence against Mrs Cellier, and that he may have some allowance."

[An Address was ordered accordingly.]

Sir Henry Capel.] I would not have Godolphin fay, "That you make too frequent Addresses to the King for maintaining Witnesses, unless you will give him Money to enable him." When Prorogations and Dissolutions have been so often, his Majesty cannot be surprized if we make more Addresses. I would address the King, to show him the condition of the Kingdom, and when the disorders are provided for, then it is a time to talk of Money. I would adjourn now, that the Committee for drawing the Address may sit, and by that time our Address is delivered, I have hopes of such a Bill as we have lost in the Lords House.

Saturday, November 20.

[Mr Secretary Jenkins acquaints the House, That to the Address relating to Sir George Jeffreys his Majesty was pleased to return Answer, "That he will consider of it;" and as to the Address for a general Pardon to all that have given Information relating to the Popish Plot, for all Crimes and Misdemeanors whatsoever, his Majesty was pleased to answer, "That his Majesty's Pardon should extend to all Crimes and Misdemeanors whatsoever by them committed to this time, Perjury only excepted."]

[Debate.]

Sir William Jones.] This Pardon running in general words, and then "Perjury" coming to be excepted in particular, by this the credit of the person may be suspected in Evidence, and it may be of consequence in legal Proceedings, as an imputation upon him.

Sir Francis Winnington.] If the Ministers have power whether to pardon any offence at all, I would know whether those persons that were convicted of Perjury have had Pardons, or whether any Pardons have passed for Perjuries since this. The King, I am consident, will pardon upon this occasion. It may be, this Perjury was on a mistake. There have been those arts and contrivances

by Papists—If a Witness speak point-blank, then he is not to be believed—But in this Pardon to put in the exception of "Perjury" is a kind of imputation as if he were a perjured man. Conspiracies of this nature are so obstructed, that you shall never know any thing—Whoever advised this has no great mind to discover the Plot. I do desire that an Address be made to the King, "That as, out of his great detestation of Perjury, he will not pardon it, yet this reslecting upon his whole Evidence, if a particular case be assigned, we shall desist." But this exception is as much as an imputation upon the whole.

Sir William Temple.] I hope there may be some Expedient found out in this case. It is better for the Witnesses to be pardoned all Offences but "Perjury," and I know not whether it will be for the honour of this House to intercede for a Pardon of "Perjury," and that "Perjury" should be excepted in the Pardon, and the House intercede that it should be granted. I move, "That the Witnesses may have a full and general Pardon for all Offences to the time of making their discovery;" and this, I hope,

will fatisfy.

Sir Francis Winnington.] Some made discovery of the Plot at first, and every new examination is a first discovery. All I aim at is, that the Witnesses be not taken off from their Evidence by formality of Law. If a man make a false Oath, and be not convicted of "Perjury," his Testimony is true: I would know how you will bound that.

Colonel Titus.] The Gentlemen seem jealous that this is calculated for the Plot, and they have reason, if particularly applied to this business. Neither Oates nor Bedlow but took the Sacrament of Secrecy, and this may be imputed to them as "Perjury," and so they can be no Witnesses. This to be excepted in the Pardon is very infamous. Therefore I move, "That you will address for a General Pardon."

Serjeant Maynard.] I am confident that what I shall speak will not be interpreted to favour "Perjury." It is certain, if it were upon fact overt, none would be so D 3 foolish

foolish as to interpose. Now the Question is, Whether this will be conducible to your end, or no? Your purpose is, that the Witnesses may be free from this danger. If you refuse this Exception in the Pardon, does it not imply to use them though perjured? But you have no such intention, as if you apprehended that some of your Witnesses were of that nature. If they took the Oath of Secrecy not to discover the Plot, that is not Perjury in our Law. Besides, no man that has taken a wicked Oath commits "Perjury" in breaking it. The dissiculty lies here; if a Witness should say more at a Tryal than he hath said already, Whether an Indistment may be against him, for not saying the full truth at first, being sworn to the whole truth?

[Refolved, That a farther Address be made to his Majesty, to desire, That the Pardons granted to the several persons, for whom application hath been already made to his Majesty from this House, may extend to all Crimes and Misdemeanors whatsoever by them committed, to the last time of their respective discoveries,

respectively.]

Sir Gilbert Gerrard* [acquaints the House, That he had Articles of Impeachment of High Crimes, Misdemeanors, and Offences, against Edward Seymour, Esquire, one of his Majesty's most Honourable Privy Council, Treasurer of the Navy, and a Member of this House; and then proceeded as follows:]

Whenever such Articles are brought to my hands, and I am satisfied with the proof of them, I take it to be my duty to exhibit them. I shall only say, I have known this Gentleman a long while; his Fortune was raised in this House, and how he comes now under suspicion of these Articles, he can best answer. This Gentleman (if what Fame says is true) has laboured with industry to prorogue or dissolve this Parliament, which all think will ruin the King, Religion, and all we have. I make this use of it, that the King knows whether Seymour has attempted this, or not. I hope you will think that none guilty of such Crimes, but fear a Parliament. One thing more;

^{*} Whether Sir Gilbert Gerrard had any particular quarrel to Mr Seymour, or affection for his Place, is no where specified.

with what imperiousness did he put the Commons in contempt, and did talk of "Wind-guns!" I believe you will find matter against him, to send him to the Tower.

Mr Seymour.] In order to methods of Parliament, the reading of the Articles must have the Motion seconded, and I do second it, that the Articles may be read.

[The Articles were then read, and are as follow:

"Articles of Impeachment, &c. against Edward Seymour, Esquire.

"I. That, whereas the fum of 584,9781. 2s. 2d. was raised by an Act of Parliament, for the speedy building of thirty ships of war, and thereby appropriated to the faid use, by which Act it was particularly directed, "That the Treasurer of the Navy should keep all Moneys paid to him by virtue of the faid Act, distinct aud apart from all other Moneys, and should issue and pay the fame by Warrant of the principal Officers and Commissioners of the Navy, or any three or more of them;" and mentioning and expressing, "That it is for the building, for the guns, rigging, and other furnishing of the faid thirty ships of war, and to no other use, intent, or purpose whatsoever;" he, the said Edward Seymour, on or about the year 1677, being then Treasurer of the Navy, did, contrary to the faid Act, and contrary to the duty of his faid Office, lend the fum of 90,000l. at 8 per Cent. parcel of the faid fum, raised by the faid Act, being then in his hands, for and towards the support and continuance of the Army then raised, after such time as, by an Act of Parliament, the said Army ought to have been disbanded; whereby the said two several Acts were eluded, and the faid Army was continued, and kept on foot, to the great diffurbance, hazard, and danger of the Peace and Safety of this Kingdom; and the Nation was afterwards put to a new charge of raifing and paying the fum of 200,000l. for the disbanding of the said Army.

"II. That, whereas an Act of Parliament had passed for raising of Money by a Poll, for enabling his Majesty to enter into an actual War against the French King; and the Money raised by virtue of the said Act was thereby appropriated to the said use, and to the repayment of such persons as shall surnish his Majesty with any sums of Money, or any Stores necessary for the said service; and whereas certain Eastland Merchants were desired by his Majesty's Officers to surnish and supply great quantities of Stores for the Navy, and, as an encouragement thereunto, were assured, that the sum of 40,000l. pascel of the D 4

faid Moneys raised by the said Act, was at that time actually in the hands of the said Edward Seymour; which he did acknowlege so to be, and did promise that the said sum should be paid to the said Merchants, in part of satisfaction for the said Stores, which they did furnish upon the Credit of the same affirmation and undertaking: He, the said Edward Seymour, did, on or about the year 1678, issue out and pay the said sum to the Victuallers of the Navy, by way of Advance, and for Provisions not then brought in, contrary to the true intent and meaning of the said Act; whereas the same, by the Provision of the said Act, ought to have been paid to the Eastland Merchants, who had surnished his Majesty with Flax, Hemp, and other necessaries for the said service: Of which said deceit and injustice the said Merchants did complain in the last Parliament.

"III. That the faid Edward Seymour, being Treasurer of the Navy, and then and still having a Salary of 3000l. per annum clear for the same, did, during the time he was Speaker of the late Long Parliament, receive, out of the Moneys appropriated for Secret Service, the yearly sum of 3000l. over and above his said Salary; which was constantly paid to him, as well during the Intervals as the Sessions of Parliament; and particularly

during the Prorogation of fifteen months.

"IV. That, on or about the eighteenth year of his Majesty's Reign, (1666,) and during a War with the States-General of the United Netherlands, he, the said Edward Seymour, being then one of the Commissioners for Prize-Goods, did fraudulently, unlawfully, and in deceit of his Majesty, unlade a certain Prize-Ship, taken from the subjects of the said States, without any Order or Authority for the same; and did house the Lading and Goods of the said Ship, and lock up the same, without the presence of any Store-keeper; and did afterwards sell the same, pretending the same to have been only Muscovado Sugars, and did account with his Majesty for the same as such; whereas, in truth, the said Ship was laden with Cochineal and Indigo, rich Merchandizes of a great value."]

Mr Fleetwood.] The first two Articles, I will under-

take, shall be proved.

Mr Vernon.] As to the two last Articles, I have credible Witnesses that will prove them, to satisfy the House.

Mr Seymour.] When my Charge is presented you in writing, I do not doubt but you will give me convenient time to answer it. It consists of several parts; as Matter

Matter of Account, &c. and if I may have a copy of it, I shall make such an Answer as will satisfy you, and, I am confident, every Member.

Mr Vernon.] I suppose, the Articles ought to be read, Paragraph by Paragraph, at the Table. (It dropped.)

Sir Francis Winnington.] If your meaning be, that he shall answer in writing, I conceive, when a man is impeached, the matter is to be finally determined here. (But time being given Mr Seymour to answer, till Thursday, be went not on.) Mr Seymour desires "he may have the Charge in writing." This is an Impeachment, and not to have its determination here, but in the Lords House. We are the great Court of Enquiry, and are to receive any Information. This Impeachment being undertaken to be proved, I would know, whether, if Articles are exhibited, this House will admit, or allow, the Person to give his Answer here?

The Speaker.] When Answer is made to the Articles, then is the proper Question, Whether it shall be given in writing. But your Order is, "That Mr Seymour shall make Answer on Thursday, [and that he have a copy of

the Articles."]

Monday, November 22.

[Mr Trenchard reports the Address, agreed on by the Committee,] for the Removal of the Earl of Halifax, &c.

[Debate.]

Sir William Hickman.] It is not proper now to speak against the Address, but I may speak to the penning of it. "That you have Grounds and Reasons of your belief, that he was the occasion of the Prorogation and Dissolution of the last Parliament"—I see no "Ground nor Reason" for this, but Rumour only; not Vox Populi. Something has been offered from his Argument against the Duke's Exclusion, &c. in another place, the Lords House; but that is not so. That he was the occasion of the Prorogation and Dissolution, &c. from whence the consequences were, the Sham-Plot—He was sick most part of that time, and when, recovered, went

out of town. I know he was against the Prorogation and Dissolution, &c. and came not back till all was over. As for the Plot, he was one of the persons to be destroyed by the Papists. The Grounds of this Address ought to be obvious to every man's apprehension; they are not to mine, and therefore I cannot agree to it.

Sir Thomas Clarges.] It is not for the Honour and Justice of the House to agree to this Address. I have said formerly, "That by Law a man cannot be removed from the King's Presence;" the Liberty of the Subject is invaded by it. When we come to ask any thing of the King by Address, it is always what the King can do without the Address.

Colonel Titus.] I speak to Order. The Address is voted, and ought not to be generally spoken against.

Sir Thomas Clarges.] I will open the Orders of the House in that matter. Any thing that is subjected to Debate you may throw out. Suppose a Grand Committee agree to Heads of a Bill; when read in the House, they may throw it all out.

Sir Thomas Lee.] To the Orders of the House! Confider the difference betwixt Votes of the House, and a Judgment: This is a Judgment of the House, and the

Address expresses only that Judgment.

Sir Thomas Clarges.] This is a general Proposition; any thing that is debated may be thrown out; and I have free liberty to exercise my reason against it. Consider, when things come to you upon any hasty Resolution, you are free to alter your Judgment. Consider, whether all Subjects are not concerned in being admitted to the King's Presence; you will put the King to exercise his Prerogative. By the Constitution of the Nation, a man cannot be forbid the King's Presence. By Law, the King may appoint many Counsellors. The Parliament is the Great Council. In the Scotch War, the Earl of Bedford sat in the Privy Council, and a Lord said, "he had no right to sit there." But he said, "he would sit, for there was an Enemy upon the Borders of the Land." Make such an Address as may be easy for

the King to grant, and give not the King a handle to deny an Address for removing evil Counsellors. Address is to remove a worthy able man. If this Lord be guilty of dissolving the Parliament, and giving the King evil Counfel, some others are so too; let us not be partial, but use all alike. I hear it said, "That he went one way, and fome another, in the Lords House." Is not this to take notice of what the Lords do? The last Parliament, we had quartering foldiers taken away by a Clause in the Tax-Bill; and we had the Habeas Corpus Bill passed, and both by this Lord's mediation; which was worth forty Prorogations. They were exposed to the Council, and had all the Forms observed; and it was happy they passed; and I know that this Lord had a great hand in it. If this, that he stands charged with, be a crime, let us have Evidence of it. The King cannot take this Lord's Right away, of coming to his Presence.

Colonel Titus.] Clarges has spoken irregularly against the Address. You will never resolve on any thing, when what you have passed Judgment upon, is debated over and over again. The very same Address was against the Duke of Lauderdale. How comes this to be such a fault

now, which was none in that case?

Lord Cavendish. The Removal of ill Counsellors from the King is a good and necessary work, and I would have it carry all the weight possible. It is alleged, "That Lord Halifax was the occasion of the Dissolution of the last Parliament." It is liable to this Queftion, how it will be proved, before you part with the Address. I would have that answered. If he did advife the Diffolution of that Parliament, another was called upon it. The Counfels of the Prorogations of this Parliament were much more pernicious. He was then out of town, and how could he advise them at that distance? The Address against the Duke of Lauderdale was much better grounded than this. You had it proved, that he faid at Council, "his Majesty's Edicts were to be obeyed as much as his Laws, and had the Power of Laws."

Laws." I will not speak against the Address, but I defire that it may lie upon your Table, till you are fortised with better Reasons for it than any I have yet heard.

Sir Thomas Meres.] If I can give my Affirmative or Negative to any thing, I may speak against it. That which governed us, the other day, in this Address against this Lord was, "Common Fame was a Ground of Impeachment, but not for Judgment;" therefore let us execute it. "You have Reason (you say in your Paper) to believe what is alleged against this Lord." Let me see your Reason, and I will go along with it. I am not bound to believe it, because another man says it. Let him show it. Let the House go upon an Impeachment by Common Fame; that way is regular; but to make this a Judgment of the House for the King to confirm

it, I am against it.

Mr Powle. What I have to fay is not from any particular obligation I have to this Lord, whom I have not, for some time, conversed or spoken with. I have two exceptions against this Address. First, I think it does not well cohere together. In the Preamble, it recites "the great mischiefs to the Nation in dissolving Parliaments, and the frequent Prorogations." No man will deny that; I do not. Then is the Prayer of the Petition; "to remove this Person, as the author of them." To make it cohere, you should mention only the mischiefs of diffolving the last Parliament. The other looks like blackening a man. As for other things, I know not; but as for the Prorogation, no man was more against it than this Lord. I know not how to justify that in the Address. I would have nothing in the Address, but what is literally true. In the Address against the Duke of Lauderdale there was not the least question of matter of fact. Besides, I make a great question, whether this Lord advised this Dissolution "in a fecret and clandestine manner," as is expressed in the Address. I have no other end in what I have said, than to set the House right. Sir

Sir Francis Winnington.] I think those words " clandestine and private," are liable to objections. But I am furprized that Gentlemen should be so rigorous to-day, when the Address is resolved. I thank God, I have this quality, and I hope I ever shall keep it, to speak my mind plainly; and if we fpeak not now, we are all undone. Though I have a great Honour for this Lord, to alter our minds by the intermission of one Sunday, is a great reflection upon us, to be unfettled in our mind. It was the Defamation of the House of Commons the last twenty years, that they did neither consider the interest of God, nor of their Country; but now to see a tenderness, when a great Person is concerned! (Though he has many good qualities, yet I am forry to fee fo much cooling in this, when all is at stake.) But this Address is not a "Iudgment" upon this Lord (as is faid:) I fay, it is no Judgment at all; but the House, upon Common Fame, believes that Lord Halifax did advise the Dissolution of the last Parliament, though he said he was against the Prorogation. This is no judging him; he has given ill Counsel to the King, and we are going to give him good. As for Impeachment, though Common Fame is no Ground to convict, yet it is to accuse. If you cannot relieve yourselves upon Common Fame, where you can have no Witness, you will never remove any man. You have a ground for this Address, though not for Judgment. We come from all parts of the Kingdom, and must hear the opinion of the People. I am for leaving out the words "clandestine and fecret," because it has been open. We are the great Council of the Kingdom: When we see ill Counsel given, and we give good! -I am uneasy for a Friend, but easy for the Kingdom. I would have the words "clandestine &c." left out, and the words "of Diffolution of the last Parliament" in, and I hope you will not reverse your Address.

Sir Leoline Jenkins.] Whenever you declare a Crime, that, I conceive, is "a Judgment," though not in the fame manner as in other Courts. I must declare my thoughts. I have no reason to believe this noble Lord

the occasion of the Dissolution of the last Parliament: There must be a proof of it, else I cannot declare it upon just reason; and you have none but Common Fame. I therefore move, that the Address may lie

upon the Table.

Sir Robert Carr. It is improper for me to speak to this Address, being not here at your Vote. If this be the fame case with the Duke of Lauderdale's, it is free for the House to be fatisfied in the particulars this Lord is charged with. One charge against that Duke was something hard upon us, viz. "That when Commissioner of Scotland, he procured an Act of Militia to impower the Council there, at their pleasure, to bring men into England, and feveral other particulars." I protest, I do not speak in favour of this Lord; but you seem, at the beginning of the Address, to lay more weight than in the conclusion. Gentlemen, I suppose, have Reason for this Address; I have none, and I have heard this Lord dislike Prorogations, and his opinion has not been big enough to do things that others have done. This Lord may have feveral occasions of coming into the King's Presence, and, I hope, this House will not deny that, which ought not to be without a Law.

Mr Harbord. I am but just come in, and was not here at the beginning of the Debate, but find that the Debate is grounded upon two points. Some are against the thing, and others against the penning of it. If they argue against the thing, it is irregular; if to the penning of it, I am not against any Expedient proposed. Those Gentlemen that vote against this Lord, would not change the words without some very good Reason given for it. That this Lord was much about the King, and shut up with him, is most certain; and if so, by the effects that have been of his Counsels, I have no Reason in the least to change my mind. No doubt there are endeavours abroad to bring this House from their zeal to the Protestant Religion. Some are tampering still. Had I feen any Amendment in Counfels, fince this Vote against this Lord-but not seeing that, I have no ground

ground to alter my opinion. If any thing be offered to the penning of the Address, not to destroy the scope of it, I shall agree; but pray keep us to the Debate of the Address, but not of throwing it out.

The Speaker read the Address against the Duke of Lauderdale.

The House divided upon every Paragraph.

The Speaker.] You may dispose of your own Prece-

dents as you pleafe.

Sir William Temple.] I do not rise to speak as to the Vote you have passed, but to the Address now before The Grounds of your Proceedings to the Vote was Common Fame, which I hear mentioned as a just Reason to believe what you charge this Lord with. That of "fecret and clandestine Advice," how proper that speech will be in relation to Common Fame, I humbly offer it. I farther offer to your consideration, whether this Address, as it is now penned, will be grounded as to Reason, and how it does pursue the ends of it. It becomes the House, in procuring right and reasonable ends, to pursue the means of it. To "Common Fame," I will fay fomething that has not been yet faid. It is not Rumour; but I have met with a definition: "Where men believe a thing, because they have a moral certainty of it, though not a legal proof." But whether Common Fame, or Vulgar Talk, be the same? Not as the Spanish Proverb, If all men say thou art an Ass, then bray. The end of this Address is to punish this Lord two feveral ways; one, by a Declaration of the Opinion of the House; and that part is already done, for that is an ingenuous fort of Punishment, and it is Common Fame now, for it is printed in the Journal of the House; and the other, by removing him from the King's Presence and Councils. Now, for the Union of the King and this House; if I were confident the King would remove this Lord, the House does proceed prudently; but in case the King does not remove him, and the House have not their end, confider, Whether that may not create an unkindness betwixt the King and this House; which, on all occasions, I would avoid. If you can ground your Opinion

nion of this Lord upon Common Fame, and that you may have your end to remove this Lord—But if not, I

would consider farther of it, and recommit it.

Sir Nicholas Carew.] If I thought we should have no better success with this Address than with that against the Duke of Lauderdale, I would lay it aside. I have seen him addressed against from a Lord to a Duke. I am sorry to see Popery hang thus over us, and when we enquire into things, there is no fault. We have pitched upon this man for the Adviser of the Dissolution of the last Parliament, and when we come to accuse him, and Gentlemen will speak thus for him, nothing can be done. Pray mend what words you will at the Table, but withstand Popery, and Popish Counsellors, for God's sake!

Mr Paul Foley. We are pressed, I find, for Reasons in behalf of our Address. Our first Reason for it was Common Fame, and I think always that Common Fame is a ground for us to proceed upon. I have read fome Records, and I find that an Officer, the High Steward, had power to commit any man upon Common Fame-When the Parliament come together, they ought to take notice of the Common Fame of Persons who have ill advised the King. But I have some better Reasons for this now, for I have heard that this Lord has denied it; but will any man stand up and deny it for him, that he was not the Adviser of the last Dissolution? We have heard of the merits of this Lord, and we have heard every thing against him, but no Friend he has stands up and denies that he was the Adviser of the Dissolution; therefore I am confirmed in it. As for his punishment, I know no other course we have to take than this; whoever is of opinion that this Lord should be removed from the King, I think they have grounds enough. Therefore I am against recommitting it, but you may mend the words at the Table.

Mr Palmes.] I move that you will debate the Address Paragraph by Paragraph, that the thing may not cool by re-committing it, or letting it lie on the Table.

Then the Address was read again.

Sir Francis Winnington.] This Address is short; it has but two bars, the Premises and the Conclusion. Put out only the words "clandestine and secret," and pass the rest.

Colonel Birch. I have heard Arguments to-day which I am forry for, "That persons not zealous enough for this Address, are against the Protestant Religion." Notwithstanding all these Arguments, I would do as I would be done by, and what you do, to be in order to your end, with that little Reason I have. For the zeal I had for the Address against the Duke of Lauderdale was not upon Reports, but Certainty; there was Evidence of what he faid about Edicts; and next, about the Scotch Army to be brought into England, or where they should be commanded; and what he got by that Address, you know. He was made an Earl, and had three or four thousand pounds Pension out of your facred Money for the Navy. When, by Act of Parliament, we were about to fettle the Trade of both Kingdoms, you know who broke that. For this present Address, in order to your end, I spent my powder the other day. I would lay before the King, that his Counsels may be such as this, and many things are better for the King to grant, than for you to ask. In the eye of the World there is ground to believe that you have Reason to represent to the King these things, &c. and therefore it is your duty to lay them before him, that he may redress them of himself; and certainly now it is most seasonable. I would have a Return of the Address you are about, before we go about to cure it ourselves. I am against putting in that of the Dissolution and Prorogation, &c. that I, who am the weakest here, may give a Reason for what I do, and I would not have one word faid against him about the Prorogations, &c. I would have you recommit it.

Sir Christopher Musgrave.] It is well observed, "That in the entrance, the preface does deserve consideration, and cannot be mended at the Table." If there was but a word or two amiss, I would do it at the Table; for you lay the stress of all the Address upon that of the Dissolution Vol. VIII.

tion of the Parliament. I can fay the Diffolution was a cause of the Papists carrying on their designs, but not the only cause. Since the Amendments are like to be so

large, pray recommit it.

Sir John Knight. I desire to consider how far you had gone two or three days ago, and whether it will be for your honour to have it faid without doors, that you are an uncertain and inconstant People. Some are for recommitting the Address, but that is to lay it aside. you have done in substance the Address contains; two or three words may be mended at the Table, if thought fit; and pray put the Question upon " fecret and clandestine."

Mr Garroway. All this Debate has rifen because a false step was made at first. If things do not cohere, or a word be left out, it may make it more fense. If you read it Paragraph by Paragraph, you will fee where any incoherence is, and if it be fo, then recommit it.

Mr Harbord. If I was disposed to fay what I can, it might perfuade more, it may be, than it has. But as to the fingle cause of all your fears, that may be mended;

and read it Paragraph by Paragraph.

Sir Thomas Meres.] When feveral Amendments are moved for, I never faw but it was recommitted; fome things may be left out, other things added; there are four fuch exceptions, therefore recommit it.

Sir Nicholas Cerew. Whoever is against the whole thing will be for recommitting it, and who is for it will be against recommitting it, and so put the Question.

On a Division, the Question for recommitting it passed in the

Negative, 213 to 101.

Sir Christopher Musgrave. I defire you will leave out " clandestine and secret."

Colonel Titus. You cannot fairly leave out the words. for I would have Gentlemen fay in what manner it was done, for it is a fecret to us yet.

Sir Christopher Musgrave. I am serious, though Titus turns my words to ridicule. I faid not "publickly;" that goes against your Vote the other day. Pray put the

Question; only omit those words.

Sir Francis Winnington.] (Something he faid before that the Compiler did not hear.) I did not reflect upon Mufgrave more than upon all perfons that laughed. I have no reflection upon those that speak their minds in this House. But now we are not under that severity, as in the Long Parliament, that we might not reflect upon Pensioners.

Colonel Titus.] I am not of opinion that this Lord did it not "clandestinely," but am very confident of this, that he did publickly own it.

"Secret and clandestine" was left out by Vote, [and the Address passed as follows:

" Most Gracious Sovereign,

"We your Majesty's most dutiful and loyal Subjects, the Commons, in this present Parliament assembled, being deeply fensible of the manifold dangers and mischiefs which have been occasioned to this your Kingdom by the Dissolution of the last Parliament, and by the frequent Prorogations of this prefent Parliament, whereby the Papists have been greatly encouraged to carry on their hellish and damnable Conspiracies against your Royal Person and Government, and the Protestant Religion now established amongst us, and have had many opportunities to contrive false and malicious Plots against the Lives and Honours of several of your loyal Protestant Subjects; and having just reason to believe, that the said Dissolution was promoted by the evil and pernicious Counfels of George Earl of Halifax, do therefore most humbly pray your Majesty, for the taking away of occasions of distrust and jealousy between your Majesty and us your faithful Commons, and that we may with greater chearfulness proceed to perfect those matters now before us, which tend to the Safety and Honour of your facred Person and Government, and to the preservation of the true Protestant Religion, both to ourselves and our Posterity, That you would be graciously pleased to remove the faid George Earl of Halifax from your Presence and Councils for ever."]

Tuesday, November 23.

Debate on the Proclamation against Petitioning, &c.

Sir William Jones.] We must come to some Conclusion; here lies such a weight upon us, that we must remove it. We have "Abhorrers of Petitioning for sitting of the Parliament," and here is a Proclamation against Petitioning, &c. and a Declaration of the Law upon it. I am afraid, that as it has been proclaimed in every Markettown in England, it has so possessed the people, that it will be a hard matter to set them right in their minds. And that you might see the Authors of that Proclamation, you have appointed a Committee for that purpose, and I move that you would add some more Members to it, that they may the better go on to know by whose Advice this Law comes to be declared to the people by this Proclamation.

Mr Trenchard.] Whether this Proclamation was fet forth under the Great Seal, before the Attorney-General received it, or whether the Attorney drew it, I would have no farther information of this. I would only enquire who advised it, to missead the Nation by such a Proclamation.

Colonel Birch.] You fend for subscribers to abhorring Petitions out of the Country, and punish them, whereas the contrivers of the Proclamation, those deceivers of the people, escape all this while. You ought to give this business the honour of a hearing at the Bar. Send for the Attorney, and charge him with it, for through his hands Proclamations pass. Let him give you an account who did it, if he did not; a thing by which all the people of England have been deceived! I would therefore hear it at the Bar.

Sir Thomas Lee.] I am for hearing it at the Bar. It is moved that Mr Attorney be fent for. I desire we may not run into difficulties. He is an affistant at the Lords House, and what Authority have you to summon him?

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But you may fend for him, to defire him that you may be informed how this Proclamation came to his hand.

The Speaker.] I think Mr Attorney-General has no

Writ of Summons to attend at the Lords House.

Sir William Jones.] He is an affistant at the Lords House, and may be summoned. You made no scruple to send for my Lord Chief Justice North, &c. But you may summon him; and if he have a Writ, I believe he will make no advantage of that. It would not look well in him, sure. I would have him summoned to attend.

Mr Hampden.] I suppose you will not direct him to attend by any Order, but you may please to direct some of your Members to attend him, to desire him from the

House to be here; and that is no Summons.

Sir Robert Carr.] If you please to send to the Attorney-General, he will (I believe) give you an account how this matter stands. The same Order was sent to your Members from the Lords to inform about putting out Justices of the Peace, and so the Lords cannot take it ill to use him as they have used your Members.

Ordered, That Mr Attorney-General be defired to attend this House to-morrow morning, to give the House an account of the Proclamation, styled, "A Proclamation against tumultuous

Petitioning."

Lord Russel.] There are some Persons at the Door, who can give you an account of the illegal Proceedings of my Lord Chief Justice Scroggs, in discharging the Grand Jury of Middlesex.

Whereupon several of the Grand Jury were called in, and some other Persons, who gave an account of the carriage of that matter, as is at large recited in the Articles against the Lord

Chief Justice Scroggs.

Sir William Jones.] The matter now before you is of great concernment to the Government, and all our fafeties, and it is so complicated, that it is hard to dispose the several parts into order. Still in this, as in other things, there is something of the "Proclamation against Petitioning," to deceive the Country, and this is done in the E 3 greatest

greatest Court of Law. The Proclamation is tendered, fo that I do not wonder that the Country has been deceived, if the Judges are deceived, or brought to be fo. They cannot but know that a Proclamation does not create or change the Law, but only requires the Magiftrate to do his Duty according to Law. But that (which is of the highest concern) does not only frustrate all the Laws made, but what shall be made. If the Bill which has been rejected in the Lords House, that this House fet their hearts upon, had been a Law, it would fignify nothing, if this way be taken to discharge Iuries. If a Grand Jury be discharged whilst Indictments are depending, (under favour) there can be no Proceedings of Justice. A great man cannot want so much intelligence, that a Presentment is against him, to observe Witnesses, and one of the Jury his friend, to know what opinion the Jury are like to be of; and if the Judges discharge that Jury before they have brought in their Presentments, a man can never be presented, or what Law can take place? You have been told (by Sir William Roberts) that the Grand Jury of Middlesex has never been discharged, till the last day of the Term, for these fourteen years that he has served; and I have attended the King's-Bench Bar these twenty years, and have observed that not only in Trinity Term, but the rest of the Terms, the Grand Jury has never been discharged till the last day of the Term, and the latter end of that The Grand Jury of Middlesex is not like that of other Counties; there is occasioned by the Term a great conflux of people, and therefore it has been the wisdom of the Law to arm the Judges with a Jury to attend them. that before the end of the Term, Offenders should not escape prosecution. Observe the method: The Grand Jury come to prefent a Petition; they had prefented many Bills, and one was ready against Popish Recusants. and it was objected, "That, by that Bill, it was not their intention to prefent the Diffenters;" and so intended to amend the Bill; but this Bill was attended by fome Lords. and Persons of Honour, and it was that which gave the alarm.

alarm. The Jury was blamed by the Chief Justice, and told, "That they meddled with matters which concerned them not," (when they tendered the Petition for fitting of the Parliament) "that the Bench were too good men to go of their errands." But I observe, that the Petition of Abhorring, &c. for Essex and Kent, the Judges brought very willingly to the King. But these are so good Judges, they will not go of the Jury's errands. for the Dignity of a Judge to present a Petition; but they disliked the Petition, and they put contempt and fcorn upon the Jury, and one of them a Member of Parliament (Sir John Hartop.) You have been told, "That the Grand Jury are never ready with their Presentments till the last day of the Term;" they were ready upon the File, and because they came with a Petition, and were not ready with the Presentments, though the Bills might be drawn time enough, judge whether this was a reasonable cause to discharge the Jury. I do not deny that the Bench does often discharge the Grand Jury before the last day of Term, but it is at their own desire, when they have no farther expectation of business; but was it ever known, when they have had matters of moment before them, and Bills upon the File, that they have been difcharged; and when the Clerk gave the Court notice that they had Bills upon the File, to tell the Clerk, "He is not to give Rules to the Court?" Whatever you do with Persons, pray take Things into consideration; for if subversion of the Law be a great offence, what a greater is it when a matter of fuch moment as Popery, &c. is depending, to discharge them before their time! Any Law made, or that can be made, will be of no moment. Consider that right be done us in this matter; without it we can have no fecurity.

Sir Henry Capel.] This matter is of the greatest moment. We are under the security of Parliaments for redressing our Grievances, and another, out of Parliament, that the Law have it's course, that the Judges obstruct not the Law. I observe that these Judges are grown omnipotent. They have done those things which they should

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have left undone. This is very fine, that Judges, who must be upon the Bench, must be dropped at Whitehall, before they come to Westminster-Hall; and I know what Law we must have, if they take instructions from those that advised the "Proclamation against Petitioning." See the consequence: Is it not as much as to say, that the Judges know all the Grievances of the Country, and the Judges must redress them, and we fit here but for form-sake? All Misdemeanors, and what is amis in the Nation, the Judges must rectify. This is such a presumption, that they must answer it. If this be done in Westminster-Hall, how dare Grand Juries in the Country represent any thing that is amis? Suppose there should be an Indictment of murdering a man's father or brother, &c. and the Judges take upon them to discharge the Jury; this stops all Justice, and the consequence will be, men will murder us, and we kill them again. I move, therefore, that you will proceed to punish the Offender in this great matter, and remedy the miscarriage for the time to come.

Sir Francis Winnington.] If this be not represented, all your Laws will fignify nothing. The Judges are but the great Truftees betwixt the King and his People. In short, I will speak only to the Question. In former times, I cannot but remember that the Judges had one Rule of Justice to go by, and another of Policy; it was then thought convenient and politic; but when Judges once undertake that, there is an end of all Law. Nulli negabimus Justitiam, and they take an Oath to do Justice. If they have not read that Text, they are not fit to be Judges; if they have, they are fit to be hanged. When Judges, against plain fundamental Rules of Law, shall thus deport themselves—For my part, when I heard of it, I made this reflection: I put my hand upon my heart, and did never think to fee a Parliament as long as these men were Judges. Was ever such a thing done in England? I will present you but with a few words. I will suppose it in a quiet time of Government, no Grievances, and no Popish Plot. Should a Grand

Grand Jury present, &c. and shall the Judges say, they shall not present? And when the Clerk of the Court, upon their discharge, said, "Hold, they have more Prefentments upon the File," the Chief Justice replied, "Will you give a Rule to the Court?" If we were in quiet times, would not this be a monstrous Grievance? Shall we have Law when they please to let us, and when they do not pleafe, shall we have none? Do as you have done already in this Parliament; make a Vote upon them. If you do not deeply refent this, all your Laws will fignify nothing to Posterity. Propose a Vote, of what nature the Offence is, and fee who are the Offenders against it; for all is at stake, if men take upon them to proceed fo arbitrarily. After you have formed a Question, and a Vote, then you go into a method how to enquire and punish the Offenders. I am afraid to name the Offence, left I should do it too little. I have heard that the Jury has fometimes petitioned on a Saturday to be discharged, that they might go home, and the Judges have answered, "You must attend; we are but dead Letters without Juries." But here is an arbitrary Proceeding which I know no Precedent of, I know not but if Mr Arnold's * throat had been cut, it might, at this rate, have slept from enquiry. You see, from the Lords House, our Bill is rejected; they have a prospect of a Popish Successor; and if they will do such things now, what will they do if we have a Popish Succeffor; when we have Judges, and shall not now have Law to protect us; when they are so servile as to violate Laws for felf ends? I will not define the Offence, but I think these proceedings do subvert the fundamental Laws, and fo I would go to the utmost severity of Judgment. I shall therefore propose the Question thus, "That the discharging the Grand Jury was illegal, and tended to the subversion of the Law and bringing in of Popery."

^{*} A Justice of Peace, who, for being active against the Papists, was attacked and wounded in Bell-Yard.

Mr Trenchard.] The first violation of Magna Charta was from the two Chief Justices Tresillian and Belknap; and these Judges have now taken upon them to subvert the Rights and Privileges of the Subject, and have taken upon them to discharge Juries, &c. when they petition for sitting of the Parliament, and suggested that they had received instructions to do so—Therefore I move as before.

Colonel Titus. If this Plot goes not on, it has the worst luck that ever Plot had. Would the Parliament enquire into the actions of a Privy-Counfellor, they are checked by a Prorogation, and then they advise to diffolve the Parliament. We are told by the Proclamation, "That petitioning for the fitting of the Parliament is against Law." And would a Jury enquire after Popish Recufants, before they had made their Presentments they are fent home; and the Justices do all they can to prevent the profecution of the Plot. Now we fee why fome Justices are put in, and others put out. These Judges are persons from whom we expect our Antidote, and from these comes our Poison. But I would say something in their commendation: I think them very grateful in hindering the Presentment of Persons that put them into their Places—Suppose no man will pursue a Thief, what fignify all your Laws against Robbery? I would be as favourable and good-natured as possible, but it must be to fuch as are fo to me, not to fuch as would destroy my Wife, my Children, my Religion and Property. As long as Judges hold their Places durante bene placito, they will do what will please, and there is an end of your Justice. Therefore I humbly move as before. Express the Crime in as fignificant terms as you can, and the most fignificant will hardly express it.

Mr Sacheverell.] My opinion is to make this Question general, for he that cannot preserve his Right in our Laws and Liberties cannot preserve his Religion. In Scotland they have what Laws their Governors please to impose upon them; let us take care that our condition

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be not brought to that. I would gladly know what way there is to bring a great Criminal to punishment but in Parliament, (and we have little hopes there, by what I have feen,) if ever you admit Judges to let Juries, or not, enquire into Offences as they please. I think I can remember a Precedent, when the Judges took upon them to violate the Laws, and fo did violate the King's Oath and their own, and were hanged for their pains; and I shall make no great scruple to do it again, when they take the Legislative Power out of your hands. I would talk with those Gentlemen. If the Lords will do you justice in any case (and I will believe they will, till I fee the contrary,) furely it will be in this. If the Judges take upon them to make Laws, and declare that riots are no breach of the Peace, for the service of the King (as they have done)—I would therefore put the Question at large, " As illegal, and arbitrary, and a violation of their Oaths, and breach of their Trusts." And when a thorough examination of the matter has been before a Committee, I hope other Gentlemen will go as high as I.

Mr Love. What I shall tell the House, I hope, will induce them to enlarge the Question, with respect to another Judge upon the Bench*. His name I shall leave to one in the Lobby to tell you. In his Charge at Kingston Assizes, he made reflections upon the late times. He spoke against the Act of Indemnity, "That the people were abused with fears, and that nothing now would ferve their turn but a Parliament; but that he knows no Representative of the people but the King, and, in faith, the King has more wisdom than to trust those people any more, who have lately given such Testimony of their wisdom in public affairs the last Parliament." The perfon who can inform you of this was afraid to come without fummons, left he should be undone, being a poor man. (The words were testified at the Bar by Richard

Mayo, a Student in Oxford, and others.)

^{*} Mr Baron Weston.

60 Debates in Parliament in 1680.

Colonel Birch.] I remember, about forty years ago, about the year 1636, or 38, that some things a Lord had done were afterwards questioned. Says he, "But who the Devil could have thought of a Parliament?" I am so weak as to think that nothing of this had been done if they had had expectation of a Parliament. I would have

some more of these Witnesses sent for.

Mr Powle. I shall acquaint you with something farther in relation to the Judges. Printing I take now to be free; after the Diffolution of the last Parliament, the Act for regulating the Press expired, and the old Law remained. This was referred to the Judges to confider, and they did agree, "That there was no remedy against the Liberty of the Press, without a new Law." A few days after, fome of the Judges were removed, and the rest were of another opinion, and an extrajudicial Judgment passed, by which Pamphlets were suppressed. There are two Reasons for calling Parliaments; one for raising of Money, the other for making Laws, as the Legislative Power, upon any new emergencies. But if Judges can be found, to make new Laws, by their interpretation of old ones, and if Treasurers can be found, to make such retrenchments in the King's Family, you will never have a Parliament. By this, and turning out Justices of the Peace, you may fee how necessary it is that the Judges have their Places quamdiu se bene gesserint.

Resolved, Nemine contradicente, That the discharging of a Grand Jury, by any Judge, before the end of the Term, Assizes, or Sessions, whilst Matters are under their consideration, and not presented, is arbitrary, illegal, destructive to public Justice, a manifest Violation of his Oath, and is a means to subvert the fundamental Laws of this King-

dom

[And a Committee was appointed to examine the Proceedings of the Judges in Westminster-Hall, and to report the same, with their opinions therein, to the House.]

Wednesday, November 24.

[Debate on the Attorney-General's being called in.]

Mr Sacheverell.] I conceive it regular, and according to your usual method of Proceedings, when you call the Attorney-General in, to ask him Questions that you have first agreed upon. I move that you will ask him, whether he drew the Proclamation against Petitioning, &c. and from whom he had the Warrant? If he did not draw it, that he declare to you who did?

Mr Garroway.] You fend not for Mr Attorney as a Criminal, or Delinquent. Therefore resolve how you will receive him.

Ordered, That Mr Attorney-General do ftand within the Bar,

the Mace standing by him without the Bar.

Sir William Jones.] I cannot blame Gentlemen that are mistaken, because they do not understand the course of things. The Attorney-General sets not his hand to the Proclamation. Pray ask him, whether the Proclamation was drawn by his direction; or, if not, who did draw it, and from whom he had direction?

Mr Attorney-General * was called in. The Speaker interro-

gated him. He answered thus:

There was an Order of Council that came to me the 10th of December last; that day was Wednesday. I attended the Council that day, and usually the rest of the Term in the morning; in the afternoon I did not attend, and was sent for the next morning, and had Order to prepare a Proclamation for suppressing Petitioning, &c. I did deliver a Draught of a Proclamation according to Order, but crave leave to say, that which I drew, was not the same in the print. The Council directed me to take the Opinion of the Judges, relying upon that case in King James's time, in Crooke's Reports. I, according to my duty, did only, when I had an Order, prepare a Draught; it was considered of, and ordered to the Press, and I saw it no more. So far I did in this case. As to "Petitions tending to Sedition and Rebellion," what these Petitions were, I know not, nor that the King and Council were informed, "That such Petitions had no legal import." But if such words had been in the Order, as the Pro-

clamation implied, I should have considered of it. But the Order was general, " For feditious Petitions, &c." What the King and Council take those to be, I know not. Had the Order been, "For suppressing Petitions against the sitting of the Parliament," I should have very well considered of it. The Draught and the Proclamation do vary. That of 2 King James was declared unlawful by the Resolution of all the Judges. I think the words "Contrary to the known Laws of the Nation" are not within the Proclamation. I do remember that that case was in the Draught. I am very willing to give this Honourable House satisfaction, but for any thing done at Council, I hope the House will not require it of me. I am upon my Oath, and may be punished in another place, if I reveal any thing done at Council. My business is to bring the Proclamation to the Council, but how it was altered I cannot give an account. I know not whether it be lawful for me to fay what was altered in Council.

Sir William Jones.] I did take particular notice of what Mr Attorney faid. He faid, " He had an Order to draw a Proclamation, and he presented a Draught to the Council accordingly." I would have it asked him, 1. "Whether he prepared the Draught, or whether it was brought to him?" I would have this Question expressly asked him? 2. "Whether he had not any private Advice from any of the Council to do this thing?" I take notice (by the way) that there is a great deal of difference betwixt the Oath of an Attorney-General and that of a Privy-Counsellor. It is but of late that the Attorney-General came into the Council. He usually, in the late King's time, fat without in a room, and when any thing of fecrecy was debated, he withdrew himself. I would know, 3. " Whether the Draught was drawn by him, or ready-drawn and given him?" And 4. "What private Advice he had from any Privy-Counfellor in drawing it?"

Mr Speaker afked Mr Attorney accordingly.

Mr Attorney answered.] I believe it went to the Press immediately from the Council, having received the alterations after I delivered it. What transcribings afterwards, I never knew any thing of. I cannot tell whether any Draught was brought to me ready-drawn, I had nothing brought to me ready-drawn,

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but what I received from my own Clerk; and who delivered it to my Clerk, I cannot tell. I believe my Clerk might have affiftance from fomebody, but who I cannot tell. "But whether from a Privy-Counfellor?" I believe I had affiftance, having been but a fhort time in my Place. If I be commanded by the King, I will acquaint you, who that Privy-Counfellor was, but I hope the House will not command me to discover the King's affairs, when I am under an Oath to the contrary. If I had advice from a Privy-Counfellor, it was by Letter from the King. But whereas I am the King's sworn servant, I cannot answer whether a Privy-Counsellor did affist me, but by the King's leave; and when I have that, I shall tell you.

Sir Nicholas Carew. This Gentleman does not answer clear. It was the word "Privy-Counsellor" stuck in his stomach. You should ask him only, who it was?

Sir Henry Capel.] I see, when men are pinched in matters of proceeding against Law, they throw it upon the

King, in this and the last Parliament.

Mr Sacheverell.] I would know what that Letter was, and who brought that Letter? It feems, it is taken for Doctrine amongst us, that though Privy-Counsellors advise to destroy the Government, they must not reveal it; though but one, two, or three be of the secret Cabal, their Oath is pretended. How shall you ever know what is against the King's interest? All the rest of the Privy-Council, their mouths are stopped, and the Cabal must rule England. I would consider that, when time comes. Before King James's time, that Doctrine was never allowed. I would ask the Attorney, "Whether he gave directions to his Clerk to draw the Proclamation, or who delivered it to him?"

Sir William Jones.] When the Attorney receives an Order, he directs his Clerk what to draw. I have heard "That the Clerk makes the Justice," but never that the Clerk made the Attorney. It is possible that the Attorney coming early to his Office, was willing to take a better opinion than his own; but, I suppose, that was not his Clerk's opinion. I would ask him, "By whose direction this was drawn, and who fent it him?"

Colonel Birch.] I think you would have the truth of this matter before you. The Attorney has given you

fuch hints of his Clerk, that betwixt them both you may have the whole truth out.

Sir William Temple.] I will speak one word to Order, and another to the Question. It is natural, that one speak and all the rest hear; and it is your duty, Mr Speaker, to keep us to Order. Next, when a stranger is brought into the House, we ought to be quiet and silent, like the sace of Authority, and you only are to ask the Questions. A stranger comes into the House, and you are to resolve upon all the material Questions before he comes in; and then to ask the Questions, and what else occurs to you. (This was said to give time to the Attorney.)

Sir Francis Winnington.] I speak to the Orders. I may venture to say, that Temple spoke irregularly; but he ought to be pardoned, having been so little time in Parliament, and so much abroad. I never heard a Paraphrase and a Lecture made to teach you your duty. When a person is to be called in, if he has any Question to ask him, he may move it, but he is not to interrupt

the Debate.

Sir William Temple.] I shall speak now to a Question. The Attorney told you, "That he had his Clerk's assistance to draw this Order." Since he has told you that, you ought to ask him farther.

The Speaker interrogates him.

Mr Attorney.] The Clerk is at the Door who fetched the Draught from the other Clerk. The other Clerk is not here. I am fure, my Clerk did not draw it without his instructions. I cannot tell whether any person gave instructions. I have acknowleged that the Clerk had advice and affiftance; but I cannot tell what advice and affiftance the Clerk had from other perfons-But one Clerk was employed in drawing it, and he that fetched it from him is at the Door. If the King thinks me not fufficient to draw it myself, the King sends somebody to affish me —There was but one person that affished—I cannot discover that Letter without the King's leave; the Letter is at home--- The Letter came from Sir Thomas Dolman, figned only by him; what command he had, I know not, but the Letter was directions relating to this matter .-- This Letter inclosed the Order, and another Order with it. I delivered one Order to the Clerk; the other was for proroguing the Parliament, and I was not fo much **ftartled** startled at the Order for the "Proclamation against Petitioning" as at that for proroguing the Parliament. The Order that I had, imported nothing but "a Proclamation against illegal Petitioning;" had it been otherwise, I should have desired to have been excused.

Sir William Jones.] We were talking here about a Letter that brought that Order, and the Attorney fays, "We cannot fee that Letter without the King's leave," and that Letter ends in a kind of cover to that Order. I do fufpect that something in that Letter may give you light. But because that Letter is not to be seen without the King's leave, I suspect it was with advice and directions, who Mr Attorney should advise with. But "that the Attorney cannot produce that Letter without the King's leave," implies fomething. If the King had ordered him to draw it, he had faid little to the purpofe, unless the King had required him secrecy. Certainly a man may tell that which is no prejudice to the King's fervice, when it is told. I would have the Letter produced, and the Attorney to tell you who he advised with.

Mr Attorney.] I believe that, in that Letter, Sir Thomas Dolman gave directions as to the Order, or fomething relating to it, and for the King's directions who I was to advise with, I must have the King's leave. Since that Letter came to me by the King's command, be pleased to give me leave to attend the King to ask him leave to produce it, that I may, whilst I am his servant, appear an honest man here, and not break my Oath to my Master.

Mr Garroway.] I observe that this Gentleman's Replies are Evasions, as in Lord Danby's case; you may remember, the King bore all the burden of the song. Put it plainly upon him. Charge him that he is the person that penned the Proclamation, and let him be discharged, how he can, by the King's Order.

Sir Francis Winnington.] I would have a certain Anfwer from Mr Attorney, "Whether he will answer you, or no?" He is upon difficulties; but no man's difficulties must hide things from Enquiry of Parliament. The Vot. VIII. F Question Question is, "Whether the Draught of the Proclamation was ready-drawn sent to him?" When I was in the Post of Sollicitor-General, I was never guided by a Letter, but by the King's Warrant. It is a wonderful thing that in such a thing as a Proclamation, communicated to all the World, there must be such a secreey in the Advice of it. Put it upon Mr Attorney to answer, or not; and then I will reserve myself for Lebate.

Colonel Titus.] The Attorney has answered those Questions already. He tells you, "he must have the King's leave," and, it may be, some others besides the King. He has told you, "he had Advice and Assistance from a Privy Counsellor;" so it is to no end to ask him again what he has already answered. I would only fend for him, and make him the Author of the Proclamation.

Sir William Jones.] I would plainly see the truth come out; and I do not know, but truth must come out. Let the Attorney know, that this discovery you require of him, is no breach of secrecy. If Sir Thomas Dolman do signify the King's pleasure to the Attorney, it is impossible the Clerk should inform you, who does only subsign the Order of Council. The signification of the King's pleasure is by the Secretaries. The Attorney does not pretend an Order from the King to keep this matter secret, only this Letter from Sir Thomas Dolman. Then tell him, that this Letter is no signification of the King's Pleasure, but of the Order of Council only.

The Speaker.] Mr Attorney, you feem to evade, in your Answer. A Letter is no fecret matter; in itself it is no fecret. The House expects that you should discover the Letter, and the Person in the Letter named,

whom you were to advise with.

Mr Attorney.] The Letter is not here, and I have it not. I defire that time may be given me, and I will produce the Letter in an hour's time. I am not willing to break the Laws in any thing, nor to conceal the breach of Laws. If it be your pleasure that I must declare his name, I was directed to advise with.

with, I must. It was my Lord Chief Justice North *. I acknowlege that the Affistance I had was from him.

Then the Vote was read concerning Petitioning, &c.

Lord Russel. I see, here is a silence in the House, and therefore I shall trouble you with a few words. I wonder to hear it moved, to adjourn this Debate till to-morrow. We ought to do our duty in questioning Excesses and arbitrary Proceedings in Recesses of Parliament, when we fee fuch running down the Protestant Interest, and promoting the Popish. But this is no Pray let us do our part. And I hope the King will be convinced, in time, and rely upon our Counsels more than upon any arbitrary Person's whatsoever.

Mr Paul Foley.] I believe that my Lord Chief Justice North has been a great instrument of Injustice. I have heard that he is fitter to be the Duke of York's Chief Justice than for the Crown. It is high time to take notice of him; and it is fit you appoint a Committee to

draw up Articles against him.

Sir Samuel Barnardiston.] I second the Motion, and I

think no man deferves it more.

Sir Francis Winnington.] At the opening of the Parliament, you made a Vote of the Subjects Right of Petitioning, &c. Now the first thing you will do, is to consider whether my Lord Chief Justice North has been a breaker of those Rights and Privileges.

Sir William Hickman.] Now you have plain proof, I

am for impeaching him.

Sir Leoline Jenkins.] I move, that you will read the Proclamation before you refolve any thing in this point. (It was read.) I never read the Proclamation fince it was fet out. I find nothing in it that declares it "against Law to petition for the fitting of the Parliament," nor how far my Lord Chief Justice North, who is a great Sage of the Law, is accountable for this to the King, or you.

* The Attorney had no mind to on himself to give utterance to a Lodging in the Tower, which he the thing defired, by naming his apprehended would be the effect friend the Lord Chief Justice North.

of his obstinacy, and so prevailed North.

This was debated in Council. The Attorney-General has his recourse to the Council for his Authority, from whom he received the Order; and withal he was to confult my Lord Chief Justice North, who drew the Proclamation. But though North be a great Lawyer, yet he is no more answerable for it than other men. When the Draught was made, it was laid before the King, and the sanction the King in Council lays on it gives it the Authority; and, I think, this cannot be charged on North as Lord Chief Justice, but as a Privy-Counsellor, and one versed in the Law.

Sir William Temple.] You are told by Mr Attorney, "That he drew the Proclamation according to the Order of the Council," and, you see, the Proclamation seems to be grounded upon known Laws. I have heard nothing against it, but the Decree of the Star-Chamber, as if it made that to be Law. This the Attorney laid upon North. In these things the King is informed by his servants of the Long Robe, and, it may be, North has informed the King against the Law of the Land. That men who know better should inform the King ill, to the destruction of the Government! I move, that the House would send for North, to give you an account upon what known common Laws he grounded his opinion; this way you may come to inform the King who should inform him better.

Sir William 'Jones.] I perceive now, by what the Attorney has faid, and the Privy Counfellors, that the matter is clearly out; what is against Law is told the King for Law. North, you may be fure, will not come here to deny his being consulted in this Proclamation, but to make it good. If he offers good Reasons for it, I may be of his opinion; therefore I second the Motion, "That he may come, if he please, to make good the Proclamation."

Colonel Birch.] I think what is moved is according to Scripture, and right Reason; if North please to fignify so much, he may be heard, before you condemn him.

Colonel

Colonel Titus.] I speak to method of Proceeding. That the person accused be heard, is very fit, but it is upon his desire that he be heard. When the Duke of Buckingham, in the last King's time, was impeached, he sent the Commons word, "That he heard there were Articles against him, and desired he might be heard."

Sir Thomas Clarges.] If you had voted an Impeachment against North, this way is very well, but you gave notice to Lord Chief Justice Keeling, &c. and Lord Chief Justice Scroggs you fent for upon occasion of taking examinations. He is no Peer, and he comes by your Order. "Ordered that he be fent for, &c." If your Vote stand, Impeachment will follow, and is before you; but let North have intimation that it is the desire of the House that he attend you.

Colonel Titus.] Pray let that Gentleman show one Precedent, that you have ever sent to a man in this

manner.

Sir John Trevor.] When the Duke of Buckingham had an accusation against him, in the Long Parliament, he sent a Letter to the Speaker to desire he might be heard +. Lord Arlington the same *. If sit be the sense of the House, any Gentleman may give the Chief Justice notice that he may be heard, as from himself, but I would

have no Order for it to remain upon your Books.

Mr Hampden.] I doubt you cannot fend for an affiftant in the Lords House by Order. Lord Arlington and the Duke of Buckingham desired to be heard, and some Honourable Persons have desired it. You may enter it upon your Books, "That leave being moved for, that my Lord Chief Justice North might appear, and be heard, in the House, that if he appear he may be heard."

Mr Sacheverell.] What you are moved, under favour, is irregular. If you think that the Attorney-General has not told you true, you may fend for North. I know, you will put it to the Question, "That, upon the Evidence

⁺ See Vol. II. p. 248.

^{*} See Vol. II. p. 274.

you have heard, there is ground to impeach Lord Chief

Tuftice North."

Sir Henry Capel.] This is no Sentence you are about to pass upon him; but the Question is, "Whether there be matter in what the Attorney has informed you to charge North." First pass a Vote, "That the Judge has violated the Law;" till that Vote be, you cannot proceed to Impeachment.

Mr Trenchard.] Will you call North hither to matter of Law, or matter of Fact? When both are proved, bring

in the Impeachment, and then let him be heard.

Colonel Birch.] Formerly, when the House of Commons impeached a man, he never grew fat; but now it is quite the contrary, he never grows lean. The Attorney denies the drawing the Proclamation as it was published. The Authority you go upon is, that the Attorney was to be affished by the Chief Justice to draw the Proclamation, but that the Draught he drew, was not the Draught printed.

Sir Thomas Meres.] The Attorney feemed to infer, that what affiftance he had was from North, but his Draught of the Proclamation was changed; but by whom he knows not. The regular Parliamentary way is, to put the Question, "Whether there be matter or ground for Impeachment, by what you have heard here," He is

not condemned by the Question.

Sir William Jones.] I was for North's being heard, as for his advantage, but it was upon what fell from a Member. But to what should he be heard? To make the Proclamation good by Law? I am now for faving his labour of coming hither, for it is to lessen our own Evidence. All the Attorney affirms is, "That the Proclamation was drawn by himself, but altered at the Council-Table." From whence you will infer, that the Proclamation was drawn legally, but that the Council spoiled it after it came out of the Attorney's hand; where they inserted it, "to be against Law to petition for the sitting of the Parliament," and so ground it upon an extrajudicial Judgment given in the Star-Chamber.

Chamber. That learned Book, of Crooke's Reports, though apocryphal, in two days time comes to be Law. I do not speak against a man's putting in, or leaving out a word—But in that Proclamation, there is a declaring Law, "That Petitioning for the Parliament was illegal." The thing is, the matter of the Proclamation, with the Reason inserted; but if North deny it, you will not be satisfied, nor with his justification. You are the Grand Jury of England, and as a Grand Jury, you may hear a man indicted, or not; but it is rarely done at a Grand Jury. There is no necessity to send for North before he be impeached. Sometimes persons desire to be heard after they are impeached.

Sir William Temple.] I have feen a Parliament abroad, in Ireland, but never was, before this, of any in England. It is not moved that North should be heard to justify what he had done, but that the King might know, he

could not justify what he had done.

Sir Francis Winnington.] I lay great weight upon Jenkins's terming him "a Sage of the Law \(\psi\)." He tells you, "The thing was done in Council, and North is no farther answerable for the Proclamation than other men," but it is no Argument, if ten be guilty, that therefore one man is not guilty. You have voted the illegality of the Proclamation; you have a great deal upon your hands, and may thank the many Offenders for it. No Bill of Indictment, found Billa vera, convicts a man; it is but an Accusation; and you may vote what you have heard a sufficient ground of Impeachment, &c. I was not willing to hear North, but I should be glad that so great "a Sage of the Law" could make that great point good.

Resolved, Nemine contradicente, That the Evidence this day given to this House against Sir Francis North, Lord Chief Justice of the Court of Common Pleas, is a sufficient ground for this House to proceed upon an Impeachment against him for High

Crimes and Misdemeanors.

[And a Committee was appointed to examine the Proceedings of the Judges in Westminster-Hall, and to prepare Heads of an Impeachment against him.]

Thursday, November 25.

On the Berkshire Petition. Mr Staples, on his Petition, was brought to the Bar.

The Speaker.] It is in your power, Mr Staples, to dispose the House to mercy or severity; and as you make an ingenuous and frank discovery, you will be used accordingly. From whom proceeded this? Declare those Persons of Quality that advised and encouraged you to it. Be ingenuous, and you may dispose the House to mercy; if not, it will go hard with you. And

now you are in your own power.

Mr Staples.] At the rifing of the Court of Seffions, I asked the meaning of the Petition? They said, "It was for the sitting of the Parliament." Whereupon the Petition was delivered to the Chairman, Serjeant Holt, and put into the hands of a Member of Parliament. The next day, several Justices desired me to move the Court, "That the Petition might not be upon the Rolls of the County." And then I moved Serjeant Holt, "That that Presentment might not be entered into the Records of the County."

The Speaker.] Was the Presentment for promoting

the Petition, &c.?

Mr Staples.] As I shall answer it in another World, I had neither encouragement by Preferment, Reward, or any other

way.

The Speaker.] It fell out unluckily that you had the Stewardship of Windser thereupon; and surely you had done something to deserve it.

Mr Staples.] I never had Reward, nor expected any.

The Speaker.] The House expects that you should discover the Person.

Mr Staples.] There was nothing but what did arise from Serjeant Holt, at Newbury Sessions. [He withdrew.]

Sir Francis Winnington.] I hope the House will think, that I will not carry an easier hand upon a man than the nature of the Crime requires. What made me deliver this Petition from Staples was, the straitness of his fortune. This man came to me after the Complaint. I knew him not to be of the profoundest judgment; and

and he thought he might get Preferment by it. I move more for his discharge, for the sake of his wife and children, than for himself. Pray call him in, and reprimand him.

[He was called in.]

The Speaker.] You have offended against the Commons of England, Mr Staples; and what you have offered for excuse, does much inflame your offence. The House understands, that you are the husband of a wife, and father of children; they will have more compassion for them, than you have had for England. You have offended against your own bowels. You have taken from the Rights of the Subject, by defrauding him of his Right. You have not stayed there, but you take the Diadem of the Crown, and give it to the Pope, to promote Popery. Perhaps you had not this confideration, but those that set you on work. Return home, and make your peace with your wife and children, and your country, who have followed you with an Hue and Cry hither: And you are discharged, paying your Fees.

Mr Seymour.] You did appoint this time for me to present my Answer to the Charge against me. I am ready to answer. I only wait your Method how I shall proceed; whether I shall give my Answer in writing, or answer the Articles as they are read.

The Articles were read; which fee p. 39, 40.

Mr Harbord.] You have appointed this Day for Mr Seymour's Answer. It has been the constant practice, when a Member is accused, that he stand up in his Place, and give Answer.

Mr Seymour.] If that be the Method, and that be the

way to come to your end, I answer,

To the first Article: I do allow, that, by virtue of that Act, I received, as Treasurer of the Navy, 498,251 l. 1s. 10d. and no more. That was the total for Rigging and Equipage of Ships. What was more, was for the Ordnance, which was above 20,000l. but by

virtue of that, I received no more than the former fum. That fum Lord Danby paid, according to the intention of the Act, and none of the Money was diverted to any other use; as appears by the Accounts. So that the Balance of the Total is 91. 5s. and that is all in my The other fum for that Service was 20,000%. which the King affigned out of his Treasury. Several fums of Money were lent to Mr Kingdon; but what were fo lent were before the Act for difbanding the Army. As to the lending 90,000l. &c. I never lent above 10, or 20,000l. and none of those sums were for building Ships, but of my own proper money, and the money of my friends: And frequently the Treasurer of the Navy does make use of his credit for the King's And this is my Answer to the first Arfervice. ticle.

To the second Article, I humbly present this Answer: That it was in my power to dispose of Money till Bills were brought figned, which they did not do as long as the Money was in my hands. The 40,000l. I did iffue and pay accordingly, which will appear by the Merchants, who are now ready, at the Door, to affirm it; and they did never call for Money, till it was out of my hands. The Time of Contract and Delivery of the Goods was fo long, that all the Money in my hands was gone: All was done by the Navy-Board, and before the Merchants came with their Bills, it was fo long, that all the Money was paid out. What will make this manifest, will be the Merchants Complaint, the last Parliament. I am fo far from prejudicing them, that I did ferve them what I could, by reflecting on the hardship of their Case; and I humbly offer you their Petition.

Mr Harbord.] You cannot receive this Paper. If Seymour infifts upon it, he must withdraw whilst you debate it. This is not the Place to hear the Merchants; that must be in another Place. That Seymour should produce this Paper, and desire that the Merchants should be heard, is a strange Motion to come from

from Seymour, who has managed fo many Impeachments.

Mr Seymour.] Thus much I know, that when Evi-

dence is produced, it has never been denied.

To the third Article: I had the Honour to be Speaker of the House before I was Treasurer of the Navy; and I was in the condition of a private Gentleman; but though it was not great, yet it did support my Quality; but it would not maintain the principal Commoner of England. I had the favour from the King to receive 3000l. a year, as for Secret Service, to avoid paying the Fees in the Exchequer; which was all the favour I ever

received from Lord Danby.

To the fourth Article: This Article is of matters done fifteen years ago, and fo uncertain a Charge, that there remain not any footsteps. For the Prizes, I never received the Money, nor ever was an Accountant for the Prizes. I acted no otherwise than as the other Commissioners. In the Article it is called "a certain Ship," without name: When it has a more certain name, and is a more certain Charge, I shall make a more certain Answer to it. Since the Commissioners of the Prizes were under a misfortune, the Great Men at Brook-House never spoke of it; and since that, there has been an Act of Oblivion. But I disclaim any benefit from Acts of Oblivion. This Article is of matters done fifteen years fince, and as there are no footsteps of it, when Persons will charge me more particularly, I shall give a more particular Answer.

Mr Montagu.] If Seymour has done as well as he has fpoke (which is always well) he may come off well. I

move that he may withdraw.

Mr Seymour.] I know what becomes me in point of Duty. I acknowlege the Justice of the House in their proceeding with me, in granting me a copy of my Charge, and convenient time to make my Answer; and I hope to make my Defence plain to the House, if not to every particular Member.—It is my misfortune to answer as criminal, but I do not misdoubt my Cause, or apprehend

a Censure from the Commons of England, who will do according to Justice. The Gentleman that brought in the Articles, had another, carried on by the Wings of Fame, "That I was a Person of no Fortune," and "That I advised the King to prorogue or dissolve this Parliament, that I was popishly affected, and had given Popish Counsels." Things of this nature make impression, when we are involved in common Danger—And I can scarce promise myself to be equally heard, and not hardly judged. That prompts me to my Vindication. If any thing looks like Vanity in me, the good a man has done, or endeavoured to do, may be made use of, when there is a presumption of doing ill. My Family were instrumental in the Reformation, and not any have been pointed out for Po-The first step I ever made in Public, was being a Member of Parliament, and what my carriage has been is no fecret; and when, in continuance of time, I had wearied that Service, I had the Honour to be called to the Chair, not fought for, either to the King, or the House. I affirm, I was indifferent whether—In that Parliament, I cannot justify, but that I was subject to mistakes, and those were questioned; but Reasons and Precedents were produced, which made the House doubt, by letting fall the Debate. I knew that the Chair could not wander, but in Paths untrodden; but the Resolution of the House once taken was punctually observed by me. At that time there was an extraordinary Question in the Lords House in relation to Judiciary Causes. I remember that the Chair was not altogether positive in that Question. I will give you one instance more. The King was on the Throne, and the last moment of the Session, the House expected that the Money-Bill should be brought down from the Lords. It was denied, and feveral Messages passed betwixt the Houses. At last, it was not brought down, but met me at the Bar. The King was angry at I faid," I would be torn out of the Chair with wild Horses, before I would stir without the Bill." House, at the latter end of a Session, were jealous of something that might be offered, and the House thin; they were were pleased to lay their trust in me, I was to hinder it. But the matter of discharging the Bankers Debt was brought in here, and in the Lords House, and if I could have been prevailed with, that Bill had been an Act. Had I been a corrupt man, that Bill might have passed. You have heard of it in Mr Coleman's Papers. AGentleman brought me a present from the City of London, and how that Gentleman and his Message were received, he will tell you: He is a Man of Honour. I have taken no indirect way. In the latter end of the Parliament that the Plot was discovered in, I suppose it will be admitted that nothing was wanting in the Chair for the discovery of it. It was diffolved, but by whose Counsels I know not. I had the Honour to be of it, and a greater Honour, to exercife your Place. I was placed in the Chair by Perfons not used to flatter, and, I believe, not me. (Colonel Birch.) And in my carriage in that Employment, I hope, I gave up no Right nor Privilege of the House. I have the Honour to be named a Manager at the Tryal of the Lords in the Tower; and that Lord that shall fall into my hands shall have little reason to think I should favour Popery. I knew nothing of the diffolying of the last Parliament, but I am fure I advised the calling this. I had a great fickness, and went into the Country, and returned not till fix or feven days within this Parliament; and how these unprecedented Prorogations have been made, I know not. Concerning the Duke of York, how he came to be called back, when gone away, I know not; but being here, and in two or three days fent away, my observation was, "That playing tricks with the Parliament would not do." But I could not justify it, that by Royal Authority any man should be banished; but sending Delinquents away is a greater crime than I have to answer for. Having made this Declaration of my part, in the next place I hope there will be a happy iffue of this Parliament, and I think it not in the power of any man to ftep betwixt the King and the Parliament, and those about him know how much he believes his fafety is in the Parliament. I cannot fay

I have made fo good use of my knees as I ought to do, but not as I hear I am reported to have done, to beg of his Majesty for a Prorogation of this Parliamont; but I should do it to establish Peace in the Kingdom. But I am unhappy to fall into the displeafure of some whom I have no great veneration for. Let those men walk abroad with what penitential words they please. They that have broken the Triple League, thut up the Exchequer, because I would not trust their Counfels—When the Parliament is dismissed, they will do the fame thing again. That the Protestant Religion may be preserved, I am for the preservation of the Crown. There remains my Charge with you. Do as you think fit, I will do as an honest man, and never depart from my Resolutions of my sincerity in the Protestant Religion, and fervice to my Country.

Mr Miles Fleetwood.] He answered not to the Article, "That he misemployed the public Money." I do justify it, and will prove it by good Testimony, that the Money granted for an actual War with France was not so disposed of, but to a contrary use. Pray read the Charge, Article by Article, that we may know your opinion

of it.

'Mr Vernon.] To the last Article "of Money received for Secret Service," what Secret Service he did that Parliament, he that received the Money knows better than I. Unless leaping out of the Chair* was "Secret Service," and that needs no proof. Though he denies selling the King's Prizes under the notion of coarse Sugars for Indigo, and Cochineal. As for the Act of Indemnity, I know not how that can clear him, since he is impeached; it is not proper here to determine, but in the Lords House. If we have not Justice against him in the Lords House, I know not where we can have it any where else. In the Courts of Westminster, where the Judges stop all Proceedings, I expect it not. The Duke of York was indicted for a Papist, and in other Present-

^{*} See Vol. IV . p. 390.

ments of Papists, they stopped the Courts of Law, because they were too big for the Law. This man is in fo much favour at Court, and has fo much Money to manage, that he can make all of his fide. See the effect of your Address to the King; you had put the King upon a most grateful act to the City, and done good fervice to the Nation in the Country, yet he, Feffreys, is Chief Justice of Chester still. This Address was not granted, nor your Addresses for Pardon of such as should come in to discover the Plot; if ever men deserved Pardon, they did, when the King's Life and Nation were in danger, and an exception of "Perjury" was put into one of the Pardons. What have you had of effect from your Addresses, by means of fuch Counfellors as Seymour near the King? I move you to put the Question, "That there is matter of Impeachment in this Charge."

Mr Harbord.] I pretend not to charm any man by what I shall fay; but the first step you are to make, is

to read the Charge, Article by Article.

The Act was read " for the Money given for Ships."

Mr Harbord. So great care the Parliament took to provide Money for Ships, and punishment for diverting that Money—Now, in short, whether can this Article be proved? It may be faid, here is nothing but an affirmative and a negative, and fo perhaps men may not be able to give a Judgment, to fay what to do. From Precedents in your Ancestors time, and in the Long Parliament, of Impeachments, the Question is now," Whether Mr Seymour is fo far guilty of this Charge, as in your judgment to proceed to Impeachment." Though he has answered all the four Articles, and endeavoured to clear himself from other aspersions. When he was in the Speaker's Chair (as you faid very well in your Speech," the Chair had been fo vitiated,") I have feen him cast his eye about, and he was come to that perfection, as to a man to tell you how a Vote would pass, and Spies and Emissaries were sent out, to fetch men in: This I have feen an hundred times. This Article two Gentlemen undertake to prove, and no man can fay, but that if he be guilty of it, he has made a

great Breach of his Trust. The Witness that can prove this Article, had his hand in putting out the Money. When a Member cannot make good the Article, he names Witnesses. The first Article can be proved by a man that had his hand for it, and Seymour has threatened the man to ruin him, if he gave Evidence. (Some called out, "Name the man.") They that bid me name him, are as ill men as he (Seymour.) If Gentlemen bid me name a Witness, that an Offender may escape, they are as

guilty as the Person accused.

Sir William Jones.] I have attended the Debate, and this is not the time to bring that in question. Seymour is a man of great eloquence, and has showed you that he is an able man. If he be good, he is able to do much good by it; if otherwise, much hurt. He has answered the Articles, one by one, and it is not much matter whether his Answer had been "Not guilty" only, and he could not make a better Answer. I take it, that, as to the great fum given by Act of Parliament for building of ships, his Charge is, "That he diverted that to another purpose, and indeed to an ill purpose, to keep up the Army." His Answer is, "That he received so much. and the rest was the Ordnance, and was paid according to the Act;" and he has referred you to his Account, and there remains 91. &c. It may be, the Money lent for keeping up the Army was other mens money, upon the credit of himself and his friends. With all fairness I do represent the effect of the Charge, and his Answer. I do not deny but that this is a good Anfwer, but all in effect amounts to no more than, "Not guilty of the Charge." I did observe, that he has deceived no man's expectation in his Abilities. He introduced his Speech to this effect, "That he was unfortunate to have a Charge against him, but it would he less so, because he should be heard in Parliament. and would call an Eastland Merchant to testify for him, &c." But that is a mistake. I am afraid this House cannot judge this matter. I could wish they had that Power. It may be, it would be more secure for the Nation.

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Nation, that this House had a several Judicature; but I am afraid this House has none. I rise not to aggravate one point of the Charge. If he be guilty, let him be condemned; if not, acquitted. You (under favour) have nothing to consider, but whether this Article be a Crime, if proved. Seymour did not take upon him to tell you this Article was no Crime, though proved. No doubt, if proved, it is a Crime against several Acts of Parliament, appropriating fums of Money, &c. that they should not be misapplied. If he, as Treasurer of the Navy, has mispent it, to another use, it is a Crime; the Penalties and Forfeitures are Fine, and Loss of his Place, if he be guilty of a new Crime—The next Article is of great confideration: There was an Act of Parliament for a War with France, and that Army had the ill luck to go off with pay, and not fighting. That Money was not fit to pay them, but Money was borrowed to keep the Army up. No man can think but that this was a Crime to continue the Army against an Act, though he lent the King his own Money; especially considering the hazard the Nation did run, by that Army's being kept up, when there was no work for them. It was well done for Seymour to mention his good actions; it may a little mitigate his punishment in the Lords Court; but this is not so proper, to tell you any other aggravations not in the Article. If they be Crimes, let them add them as Articles; let right be done, and proceed with that gravity as in other places. If any Member will fay that this matter contained in the Article is an offence, let him rife up and fay fo. Two Members have faid, that they do undertake to prove it.

Sir Thomas Lee.] That which is out of question is not the Question; but the Question is, "Whether, upon

these Articles, you will impeach Mr Seymour?"

Mr Kingdon.] I should not rise up to speak, unless it were in my power to give the House some Information; and it is only because I am named by Mr Seymour, to whom I lent Money. This Money he lent to me; but whether it was misemployed, I know not. He Vol. VIII.

has offered to produce his Accounts. Some part of this Money he lent me not, for some part he borrowed of me. As to the other part, said to be lent for continuance of the Army, I lent none for that purpose; for those great sums were lent long before the matter of disbanding the Army entered into Debate, or whether you should continue them. Long before the Act for disbanding the Army, there was a necessity that the Army in Flanders should have ten thousand pounds, to prevent them from starving. The other Money I took out of his House to disband the Army with, which might else have cost the Kingdom eighty thousand

pounds more.

Sir Thomas Lee. I have been long acquainted, and have had a friendship with Mr Seymour, but what I shall fay shall be for your service, which will be, to commit this matter at large, because Seymour is charged with having employed the Money to different uses, and Kingdon fays it was not employed to the uses in the Article mentioned, but on the contrary. It is no light thing for the Commons to make Complaint to the Lords of one of their own Members. This will be but a mean recompence of your credit, to lose your proof, when Witnesses shall go back in the Lords House, and the Commons use not to fail in their Prosecution. For that reason the Commons have given notice to Offenders, as to the Duke of Buckingham, &c. because they would be fo well informed, that they may never complain but the person may be found guilty. It is a matter of so great weight, an Impeachment, that the Commons ought not lightly to accuse. Impeachment is your weapon, and you must not blunt it. If you are mistaken in one part of it, you may be in another; and it will be a fatal thing to go to the Lords with a mistake. You have heard Seymour's Defence and Kingdon's Evidence.

Mr Harbord.] Vice-Admiral Penn and Commissioner Pett were accused at Brooke-House before the Commissioners of Accounts*. Penn was accused, that he had

^{*} Sec Vol. I. p. 30 and 133.

embezzled Prize-goods. He was summoned hither, and answered his Charge; and then the Question was, "Whether, upon that Complaint, there was ground for Impeachment?" And it was resolved in the affirmative. You have the same grounds now against Seymour. I can undertake for myself, but not for another man, to make good what I have afferted. Mrs Cellier disposed of an hundred pounds to get the Evidence against the Lords in the Tower taken off. If Evidence against Seymour be named, they may be taken off. We see Money has ruined us, but hereafter I shall propose a way to make the Kingdom happy.

Mr Booth.] I rise up to undeceive Gentlemen. I hear it said abroad, "That friendship guides me in this matter, and not reason and honour." Whoever says so, is guilty of prejudice. If Seymour be guilty, condemn him; if innocent, acquit him. If we be baffled in this Impeachment in the Lords House, it will be a prejudice to all you shall do; therefore I would commit the Articles to be well considered. In the last Parliament these Articles were let slip, and I doubt it will be said, there is something of revenge in it, more than upon public account. And if that appear, it will be a damp

to all you do. Therefore commit the Articles.

Mr Montagu.] In the last Parliament, did come a credible substantial Gentleman with an Impeachment against Seymour; but he had used him ill, and the Parliament was dissolved.

Sir Christopher Musgrave.] An Impeachment has been brought in, and your Member has answered it. What is before you is, the Ground of Impeachment in this Article. The Members that brought in the Articles may have ground to believe them, yet they may be deceived, and so you expose the Honour of the House. In the Impeachment of Lord Mordaunt, several Witnesses were examined, and several days were heard; and next, you have done so in the case of Sir William Penn. Several Persons did enquire into Miscarriages, and it was so difficult to make them out, that the House did, by

Act, &c. commission Persons to enquire into them. They examined Witnesses upon Oath at Brooke-House, and they made a particular Report of the Evidence. Could any thing be clearer? But here it is said, "Gentlemen will make this Charge good;" but yet no proof is made of them. Seymour produces his Account, and will stand and sall by it. Kingdon tells you, "That that of the Money borrowed was a mistake, and that Money was not so employed as in the Charge." I move,

therefore, that it be committed.

Mr Love.] I fat in great awe in the Long Parliament; but Seymour, I remember, accused Lord Clarendon in the Long Parliament +. It was then said, "To charge that great Lord, and prove nothing, would be a dishonour to the House." A great Gentleman then of the House (it may be, I can produce the very Speeches I then took, in short-hand, both those against him and for him; those who were for Clarendon were for discovering Witnesses, that they might be taken off,) Lord Vaughan, upon his Honour, did undertake to prove the Article "of betraying the King's secret Counsels to his Enemies *; and that was all that was expected, that a Gentleman should rise up and say, "I undertake to prove that Article."

Colonel Lirch.] Love tells you, "he fat under great awe in the Long Parliament;" and I under great fear; for that I thought never to fee the Diffolution of that Parliament. I remember that business of the Impeachment of Lord Clarendon. In short, I did not believe one word of that which Clarendon was accused of. I pressed no Witnesses to be examined, but farther to examine the matter. We know which wind blew Clarendon over sea, and what wind blows now. Seymour has said, "he is a lover of his King and Country, &c." but I cannot but observe the hand of God in this Charge against Clarendon. When Seymour was in the Chair, no man was more sharp upon me, and I sometimes as smartly replied. But as to the last Parliament, I think

+ See Vol. I. p. 15. * See Vol. I. p. 35.

he did believe the Plot in the Long Parliament, and therefore I did recommend him to the Chair. If he be guilty of this Charge, no man shall prosecute him with more warmth than I will do. When you refolved that Money should be given upon a Poll-Bill, for the French War (which I was convinced of) an hundred thousand pounds for fome things was to be provided in a few days; I faid to Sir R. Howard, "You have fifty thoufand pound remaining, &c. in your hands;" he replied, "I would be taxing, &c." I told you formerly of "a Cudgel, that would break that glittering Bottle, the French King *;" but you must have a sharp sword to do it now. Sir Robert Howard said, "He had Orders for iffuing out that Money, &c." I never heard but that if a Member faid, he was mistaken in an Article, it was no farther infifted on; as in Clarendon's case. The Money might be lent, and possibly the individual Money for Ships that were to be built; but can any man have fatisfaction, unless a Committee enquire? And so your Honour will be faved. Be upon fure ground, and, that the Evidence may be clear, commit it.

Mr Papillon.] There were two Acts for disbanding the Army, but the Parliament had a trick put upon them. There was two hundred thousand pound given for disbanding the Army, and it was employed to keep it up. I am afraid, this Money lent by Seymour was that which kept it up. He should not have parted with the Money till it was effected. I do not lay so much weight upon what is said by Mr Kingdon, as to carry this Charge to a Committee.

Mr Kingdon.] I speak to Orders. I should not have troubled you, but that I find myself reslected on by Papillon. All that Money went to disband the Army, and what was lent to Mr Seymour was before the disbanding the Army.

Sir Francis Winnington.] I look upon this Article, and I find it mentions not one word of Kingdon, but "that Seymour directed eighty thousand pounds, &c.*" But that

Kingdon's Money was not this Money, is more than any man can fay. Kingdon is complained of for mifpaying the Money. Proximus ardet, &c. I should be glad if Seymour was not impeached; but there is a particeps criminis, &c. I affirm, that, when the Committee fat for Enquiry after the Pensioners of the Long Parliament, a Gentleman of Quality gave Evidence, it worked fo hard. And that was the reason the Charge came not in that Parliament against Seymour, that Parliament being foon discharged. I would know, when a man is impeached, if any man shall stand up and fay, "he does not believe the Articles," whether this shall destroy any Impeachment? But Gentlemen fay still, it may be committed, which is a gentle rejection of the thing. If this Gentleman be guilty, it is more glorious for him to be tryed in the greatest Place of the Kingdom, and to justify himself, than to stifle it here by Commitment; and then the next thing will be, Witnesses will run away, because this great Man is too great for the Commons of England. If you take away the Means, you take away the End. The Court ever calls for Profecutors, but never for Witnesses, till issue be joined. Seymour has committed a great Crime, and he will commit a greater to keep himself from Justice. I was Counsel for Lord Mordaunt in his Impeachment; and I remember the House would not let me produce one Witness for him, and he was impeached. We know what constitution the Long Parliament was of, and what Precedents they made; but at the latter end of it, when it began to be filled with brave men, Articles were prefented against Lord Danby, and there was nothing but Profecution, no recommitment. If the Articles be not proved upon Tryal, it is no reflection upon the House of Commons, but on particular men who undertook them; but if Gentlemen undertake to prove the Articles, and you do not impeach thereupon, this will be a great discouragement to call Great Men to account. Kingdon borders upon the same offence with Mr Sexmour, if it be one, and so what he fays is of no weight. Colonel

Colonel Birch.] I will begin where he ended. He tells me, "I will look to my interest." I say, that Winnington pleaded for Lord Mordaunt, and then you know where his interest was. So he grounded that old Maxim of mine. I think myself not well dealt withal, to tell me of my nibbling about Money. I am Auditor of the Excise, and can any man charge me with ever taking six-pence bribe? Lately I was one appointed to disband the Army, and I meddled with no Money but what I gave account of; because I am told of "nibbling." I did not say "that it was impossible to prove these Articles," but no man can but he that keeps the cash. If, after all this, this individual Money was given for this use, &c. it is an Article to impeach upon; if not, you cannot.

The Debate was adjourned to the next Day.

Friday, November 26.

[Mr Secretary Jenkins delivered the following Answer, in writing, from his Majesty, to the Address relating to the Earl of Halifax:

"CHARLES R.

"His Majesty, having received the Address of this House relating to the Earl of Halifax, hath thought fit to return this Answer:

"That he conceives the faid Address to be liable to several exceptions: But, having a great desire to preserve all possible good understanding with this House, he chuses to decline to enter into particulars, to avoid all occasions of dispute: He therefore thinks fit to tell them, That he doth not find the Grounds in the Address of this House to be sufficient to induce him to remove the Earl of Halifax: But he answers them, at the same time, That, whenever this House shall, in a due and regular course, prove any Crime either against the said Earl of Halifax, or any other Person, who either now is, or shall hereaster be, in his Council, he will leave him or them to their own legal desence, without interposing to protect them."]

[Debate on Mr Seymour's Impeachment refumed.]

Sir John Knight.] I conceive that the House intended to proceed to such Articles as may be suitable to your

Honour, and that the Honour of the Kingdom may not be laid level, and your Member acquitted. As for the first Article, "that Mr Seymour had directed the Money you gave, for another use, &c." it is very sit that he be called to an account for it. If I stand up and say, "I will make good an Article," consider how it will be made good. Says Seymour, "Not one penny has been diverted, but employed according to the Act of Parltament," and prosfers to produce his accounts. In the one way, or the other, consider well what you do, lest, if he be impeached, the Lords find him Not guilty. Therefore it is not enough that a Gentleman rise and say, he will make it good, but be sure of proof, for your Honour.

Mr Harbord.] If you proceed by Precedents, I am fure you have many; but the Question of Commitment of the Articles was not first put. If you put the Question, "Whether there be ground of Impeachment upon these

Articles," those Gentlemen left off-

Sir Nicholas Carew. The Question of Commitment of the Articles arises from Arguments of the Honour of the House. But no man had been impeached in the Long Parliament, if that had been an Argument. If you put fo great a discouragement upon Members that bring in Impeachments against Great Men, what use are you of, unless to give Money? We know the condition of the Nation; if we go this way to work, we give up all. You must mistrust the Honour and Wisdom of your Members, that they brought in this Charge maliciously, if you refer it to a Committee, and rest not upon their undertaking to make it good. Were this Charge only a Breach of the Letter of the Law, I would not open my mouth, for every one offends: But what became of your Money, when the ships should have been built within the time, and an Army raised for an actual war with France, and you were told from the Bar, * "That a Gentleman would rather be guilty of forty Murders, than that it should not be a War?" And, you know, a Letter was produced,

^{*} By Mr Secretary Coventry. See Vol. V. p. 9.

"That, about that Time, Lord Danby was treating to make the King tributary to the King of France, and, on that pretence, to keep off the Parliament;" and an Army was raised; for aught I know, to carry on the Plot. There is Evidence enough; but if you do not impeach

Seymour, give up all.

Mr Leveson Gower. I differ in the means, but not in the end; when a Member did stand up and say, "He will undertake to prove the Charge," and yesterday another stood up (Kingdon) and told you, "He believed the contrary," and another replied, "Kingdon was as criminal as Seymour." Keeping up the Army was a great fault, after the Act for disbanding it; but in the Act for disbanding it and paying it off, there is a Clause of Indemnity. Next, it is faid, "If the Articles be referred to a Committee, to examine the proofs, Witnesses may be menaced and taken off." But if fo, it might have been in the Committee for the Plot: Bedlow, Oates, Dugdale, &c. might have been taken off. One of the Evidence is faid to be a man worth 10,000l. I wonder, such a man should be bribed or menaced. Be fure of the proof, else the Honour of the House is exposed. Is not all the Evidence at the Bar against the Lords in the Tower known, and printed? Shall we be afraid to show our Evidence against a Protestant, a Man of Family, and not afraid of Evidence against Papists? I am for committing it.

Lord Cavendish.] You are moved, "That this Charge may be referred to a Committee." I think, for no other reason but that the matter of the Prizes may be examined. Persons at a Committee may say things, and retract them again; but those against the five Lords in the Tower were past retracting; they were all upon Oath. If that be so, committing the Articles is the way to have them fall to nothing. Without doubt, the Articles are criminal, and a breach of two Acts of Parliament. A Member has said, "He knows, that part of that Money was not employed for building Ships, and that Money kept up the Army." On the other side, a Member spoke positively to one Article. If the Honour of the House be concerned, it may

be vindicated; but I cannot imagine that the Honour of two Members that afferted the Articles will be exposed. I cannot suppose that. The Articles are criminal, and undertaken to be proved: And there is ground to me sufficient, that in the Articles there is matter to impeach

Seymour.

Mr Dubois.] There must go a great many blows to fell a great oak. Here are high Crimes charged upon Mr Seymour, and offered to be proved. The issue is, Whether upon this Enquiry you will find it Billa vera? If the last Parliament had sat a week longer, I would not have been in his case for two-pence half-penny. The Money for building the ships, fenced with so many Clauses in the Act, &c. should not have been diverted. There is Indemnity in the first Act, but not in the last. The credit of Kingdon's negative Evidence, I hope, will not be put in competition with two affirmatives. If Seymour be inclinable to Popery, he is ready to bring in Arbitrary Government. I am for impeaching him upon these Articles.

Sir Leoline Jenkins.] In this case, you are involved as prosecutors, and therefore I hope you will well consider of it. If you prosecute wrongfully, it will be very ill, and therefore a man should not mingle any of his own passion in the prosecution; it should be to no ill end, and [there should be] a moral assurance of the truth of the Charge. I do not see that industry used yet, whether the Charge be well grounded. One worthy Member (Kingdon) speaks assu-proprio sasto; two Members speak their thoughts by hearsay. If this business come before the Lords, it will be absolved in this condition, being positive proof from

one, and only hearfay from two.

Mr Evelyn.] Falfity and truth are vaftly different; but when falfity is in a fine drefs, it makes a show. I was at first full of fear, lest the House should suffer in not making good the Articles, and so might have a blot, and the Gentleman a greater that brought in the Articles. Considering the vast trouble the Plot has given the House, the Quality of the Conspirators, and their number, and that the House should receive a blemish! Those without

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doors will think this a bold act, who are for Impeachments. I conceive, your proper Question is, "Whether this Matter in the Articles be a proper ground to impeach

Mr Seymour, &c.?"

Sir Francis Russel.] This is but in the nature of a Prefentment to a Grand Jury. To what intent should persons give the Committee knowlege of the Evidence? Let it be known upon the Impeachment before the Lords. It is not only a distrust of your Members, to refer the Articles to a Committee to be proved, but it is needless, and against the method of Parliament. You must carry it to another place, where you are to discover the Evidence, and till then, the Prisoner is not to know the Evidence. But to refer it to a Committee to hear the proof, is against all Law and Method.

Mr Finch.] If I was of opinion that the Honour of the House was concerned in it, I should possibly be as eager as those Gentlemen that move it, that this Charge should go to the Lords, before it pass a Committee here. It would be a great misfortune to the House, if, through this apprehension of partiality, the Lords should disappoint you: Therefore I shall say something, before you put it to fo great a hazard. It is injustice to the House, and your Member, who has been a zealous asfertor of the Rights of the Commons in the matter of the Lords taking upon them to judge original Causes. Your Right in carrying up the Money-Bill he vigorously afferted: It is a justice you owe him, not to expose him to that Tribunal, without Evidence first heard. Evidence will all be exposed to your censure; therefore examine the Grounds of the Charge. I shall not speak to Precedents of Impeachments; but there is a confiderable difference betwixt Impeachments of Treason, and Misdemeanor. It does not follow, because no Treason is found by the Lords, that therefore no Misdemeanor. Precedents are express in the case, as that of Sir William Penn's Impeachment; and you will hardly find one Precedent of Misdemeanor, that has gone in a contrary way, but has been examined at a Committee. Where the Matter Matter charged and the Proof was presented to the House at the same time, as in the case of Lord Danby's Letter to Mr Montagu*, there was no need of Witnesses. And another reason is, where a Gentleman undertakes to make the Charge good upon his own knowlege; that is much different from the credit of others; that is not giving credit to your Member, but to perfons not known. I will not reflect on the credit of the proof undertaken by your Members; but I must say, you heard, on the other fide, the testimony of a Member (Kingdon,) if not all the confiderable circumstances, of his own knowlege. I am forry to hear it objected against his testimony, "that he is particeps criminis;" if so, I fear you will want most, if not all, your testimony against the five Lords in the Tower; which is fo far from invalidating their testimony, that it confirms it—Not to accuse himself to excuse another. In the Impeachment of Lord Strafford, when Sir William Pennyman was brought by my Lord to show that his words had been otherwise than they were taken to be in the Impeachment, viz. "That the King's little finger should be heavier than the loins of the Law, &c." one of the Managers of the Impeachment told Sir William, "He did ill discharge his duty to the Commons (being a Member) to fuffer the House to run upon such a mistake." Has not Seymour done your service worthily, and I hope you will as worthily consider it, in your manner of proceeding with him. That matter alleged against Seymour, "his dexterity when he cast his eye about in the Long Parliament to tell the House," is not in any one Article. You may fee, by his Accounts, the Money received and the Money paid; and the Navy-Board must be his vouchers, and those he will produce. If Seymour must answer for the faults of all men, there is Ground for Impeachment. Therefore, upon the whole examination of this case, before it go to the Lords, no objection can be against Commitment. I do conceive that the Act of Parliament for building the SI

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^{*} See Vol. VI., p. 348.

Ships, &c. does impower those Accounts to be taken by the House of Commons, in an express Clause. I remember, in a dispute betwixt the Lords and Commons about the accounting, &c. the Lords are excluded, and you ought regularly to receive that Account in the House, and to let a Committee examine it. If this be so, receive the first Motion of committing the Articles, and so you may receive the Accounts in the House.

Mr Harbord.] There is a reflection upon me, of "dexterity, &c." It is a terrible expression, to fright a Gentleman from his public duty. I will never decline my Country's fervice, nor do I covet Seymour's Place, nor envy him; therefore I hope you will not fuffer a man to be reflected on, that a thing is done with "dexterity," when it is done with fincerity. You are told by Seymour, "That what he has done was not without the approbation of the Commissioners of the Navy." There was a great struggle betwixt him and the Commissioners, &c. The Merchants, finding Seymour's credit and power too big, fell upon the Commissioners of the Navy. Seymour had Instructions not to pay any Money without Warrant from the Commissioners of the Navy. The Merchants faid, "That the Commissioners had told them they had ordered their Money, but Seymour was not ready to pay it." But the reason why Seymour would not obey the Commissioners Order, was, that he despised them, and came not to them in some months. I have the Papers to prove Seymour's Answer, and the Commissioners Reply to it. (Then he spoke of his refusing to sign a Conveyance to Lord Danby of Lands from the King.) As to what Finch said of "dexterity, &c." I never voted, in any Council, "That the Duke of York should stay in England," when [he was deemed] an enemy to the Nation.

Mr Finch.] When Harbord replied, I did not know the matter betwixt Seymour and the Navy-Board. I do fay, the Navy-Board orders vouchers to Seymour's Accounts, and the Exchequer, if they find one, will not deny the other. As for Harbord's being even with me

in the aspersion, "That I was one of those that retained the Duke in England," I can justify myself to every Member, and the most partial. I was not for giving them this handle to sanctify themselves to the people. I did think it was necessary the Duke should be absent, and had security for it, in the opinion of the Parliament, and I was satisfied. I never knew that "dexterity" was a crime, and am willing to excuse Harbord.

from that matter.

Colonel Titus.] Whoever has the keeping of the unrighteous Mammon, can make friends. I know not well which way to give my opinion in this matter, when I confider how fuccessful Addresses and Impeachments have been. I never faw by Addresses that we have removed Ministers. Instead of blowing up our Enemies, we blow up our own work backward. But how fruitless soever Impeachments are, yet we must proceed, to fatisfy the World. Two things induce men to believe the Impeachment; one, the probability of the thing, and next, the credibility of the testimony. If the thing be probable in itself, that such sums could be raised on the credit of a particular person—This matter you had had before you the last Parliament, if it had sat, (as fome took care it should not, by dissolving it) by the person's evidence who was employed in the things them-They tell their story with coherence, and give reasons why they may be trusted. Some of this Money was employed for the Army, to keep it up. But others fay, by circumstances, who believe-You are told by Tenkins of " facto proprio, &c." I think, Kingdon is under suspicion of the same thing, and it is a natural fuspicion of this Gentleman to be accused for Money, &c. And should not I think that it my neighbour's house were on fire, that my own was in danger? And that is Kingdon's case. It is natural for men to be advocates for faults, that they may be questioned for. I think, there is Ground for Impeachment, the fact being criminal, and will be proved. The thing itself makes the fact criminal, and you have no suspicion of the

the Evidence undertaken, because Kingdon speaks in his own case. It has been well objected, "That a great Person that has great power can never be punished, if Evidence be brought to a Committee;" therefore I defire the Evidence may not be known, that Art, Force, or Money can corrupt or terrify from giving their teftimony. The Committee of Secrecy, the last Parliament, was only called fo; all they did was known publicly. I speak it of my own knowlege, and amongst knowing men; constantly, every night, Lord Danby had intelligence of what was done. Finch tells you, "That by dexterity many things were brought under the shelter of this Article of the Money, &c." and he took occasion to magnify Seymour, &c. If the Witness against the Lords, being particeps criminis, had gone about to excuse what the Lords had done, he would be no competent Evidence; but if Kingdon will accuse Seymour, he is a competent Evidence. To commit this Charge, is to deaden the zeal of the House; therefore put the Question, "That there is matter of Impeachment in these Articles."

Mr Hyde.] I was prefent at the Impeachment of Lord Clarendon. Yesterday I heard a Member say, "That, in that Impeachment, to every Article a Member did rise and say, "I will make that Article good;" and for that reason, I am now against that way of proceeding; for afterwards one declared, "he was unsatisfied in the Article he undertook to prove;" he owned "he was abused by the Evidence." It was a hard case, the proceeding then, and I think it will be so now, if he were the greatest enemy I had in the world; and therefore I am for Commitment.

Mr Love.] I shall speak only to the Question. If I were convinced in the Reason and Equity of it, I should not be against Commitment. I have refreshed my memory, since last night, out of my Notes that I took in Lord Clarendon's Impeachment. It was then said, "Now you have heard the Articles read, for the Honour of the House you are to know where and when the crimes

were committed, and by whom they will be proved." Says Seymour himself, "That is the way to invalidate all your Testimony, by publishing the Witnesses, who by

Corruption or Menace may be taken off."

Mr Trenchard.] I defire you will keep strictly to the Question. In the case of Lord Clarendon, the House had not fo great inducement to impeach as now, because Members did not undertake the proof of the Charge then; they had only inducements to believe it. Money was lent by Seymour, and, confistent with truth, not lent to Kingdon. In an Impeachment of Treason we ought to be more tender, than in a Charge barely of Misdemeanors. When Gentlemen do undertake the proofs of the Charge, it is a disparagement to the Members to refer it to a Committee to examine Evidence. You must not put discouragement upon your Members, lest you lay out measures for the future.—When the Duke of Lauderdale was charged, foon after the Parliament was prorogued, you found one of the Witnesses bought off, and the other sent to the Tower. If the Lords find not the Charge, the diminution is of their Honour, not yours; and it is no more than a Petty Jury not finding the person guilty, when the Grand Jury has found the Bill. Pray put the Question, "That there is Matter in the Articles to impeach Seymour."

Sir Thomas Lee.] I know not what the Lords will fay concerning the Ship and the Money in the Charge; but when matters are reduced to particulars, you are obliged to confider the Act of Indemnity, whether the Crime be pardoned by that Act. You are bound to take notice of that Act, where it is plainly expressed, "That no man shall be impleaded for what he has done, relating to the

Army, &c. by that Act."

Sir William Jones.] In point of Law, every hour detaining the goods purloined and embezzled is an offence, and the Act, &c. does not pardon the goods, the indigo, &c. of which no account was made. Take it one way or another, the Question is at an end.

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Sir Thomas Lee.] I defire only to know, whether a par-

ticular Exception does not explain the matter?

Sir Francis Winnington.] Look into that Act of Pardon which passed some time before the Disbanding-Act, and you will find abundance of Exceptions in it for the benefit of Great Men. I should be very loth to put an Article upon Seymour, that is already pardoned. Seymour did say, "Though haply he might be pardoned by the Act, he would not shelter himself under it." But as to that particular relating to purloining the Stores, or any Corruption in his Office, if you but think that an Argument probable to impeach, I love the Gentleman so well, that I would hardly advise him to plead it.

Colonel Birch.] I will not take notice of Pardons in Gentlemens pockets, but that Act of Pardon spoken of. I said formerly, upon that Act, "That it was only for the sake of some Great Persons." If Lawyers say that Seymour is not pardoned as to the Prizes, &c. by that Act, put it

to the Question.

[The Question being put, That the consideration of the Articles, &c. be referred to a Committee, it passed in the Ne-

gative.

Refolved, That Mr Seymour be impeached upon these Articles, and that a Committee be appointed to prepare the said Impeachment

Mr Harbord.] I have seen no other Precedent of Commitment upon a Charge of Misdemeanors, but that of Sir Giles Mompesson. The House did order his Commitment to the Serjeant. I desire the Long Robe may consider of it.

Sir Christopher Mujgrave.] Pray call for the Journal,

and see the Precedent of Sir William Penn.

Mr Garroway.] We have not been frequently troubled with Impeachments; but in the last Parliament, the case of the Impeachment of Lord Mordaunt and Sir William Penn was for Misdemeanors. That of Lord Clarendon was another case. In this you cannot extend the Impeachment farther than the Articles.

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Sir Thomas Lee.] Unless you will do, in this case, more than has been done in any, refer it to a Committee. Consider the Precedents of Sir Giles Mompesson, &c. Because nobody would be security for his forth-coming, and he confessed the fact, he was imprisoned. Is there no difference betwixt Misdemeanor and Treason? But I will not enter into the Debate, but desire to know the course of all Parliaments relating to Precedents. Let the fact be plain-

ly before you, and do what you will.

Sir Francis Winnington. Be careful not to go from the Rules of Right. I appeal to you, if an Information of Misdemeanor be against a man in an inferior Court, whether they do not imprison the party till they shall think fit to bail him? I believe there are feveral Precedents of Members complained of here, that have been committed. Sir John Bennet was taken into custody, in order to have an Impeachment drawn against him. Seymour being committed to the Serjeant, if he fay, "I defire to be bailed," he ought to be in a Court of Record. But I take it, there is more value from an Impeachment of the House of Commons that sounds of Grievance. &c. It is not the Judgment of the House that he should remain in custody, but for so small a time till the Impeachment may be drawn up. Higher Precedents than those of the Long Parliament must guide you; that so, if he fland committed till the Impeachment be drawn up, he has no wrong done him.

Sir Christopher Musgrave.] I cannot agree to refer this to a Committee to examine Precedents, and in the mean time to commit him; which is, first to commit him, and then to examine Precedents of Commitment. I would know by what Rule you commit him to Custody, if the Crime be bailable. If he offer Bail, the House of Commons cannot bail him. Let us that complain of arbitrary Courts take care that we be not offenders ourselves. Being a Member of this House, you cannot divest him of the Privilege he has out of the House. Pray walk in wary steps in this matter. This manner of proceeding

is not for your Honour.

Sir William Jones.] In all our Proceedings we are as well to fatisfy our own consciences as other mens. I am yet but young in Parliament, but what moves me is Reason of Law. If a man be accused of Crimes, there is not a necessity he should be in custody; it may be, in case there is danger of slight. If he be accused of capital Crimes, the man may run away, and hazard his estate, to save his life. In some capital cases a man cannot be bailed; but in most cases Bail may be taken. It is said, "he may go away if not imprisoned;" so far, it may be, we desire it; but the Reason and Practice of all other Courts is against it. I desire only that your Precedents may not outgo all other Courts of Justice.

Colonel Titus.] If you do any thing, and have no Precedent for it, Seymour will have all the reason to accuse you of Injustice, and your own Honour be exposed. To obviate both inconveniences, pray let Precedents be

fearched.

The Searching for Precedents [concerning the committing a Member to custody, when impeached in Parliament,] was referred to the same Committee that was ordered to draw up the Impeachment.

Saturday, November 27.

Mr Hampden reports, from the Committee, an Address to the King, in answer to his Message relating to Tangier.

Debate thereon.

Mr Garroway.] As this Address is made, I cannot give my consent to it entire. I observe, that the Address is grounded upon the King's Message, which was "for Advice and Assistance." There is not one word of "Advice" in it, and as for "Assistance," you will give it when such and such things are done. You have not considered the mole, fortifications, and garrison. The last Parliament, you ordered a Bill for uniting Tangier to England, and if you part with the Address so, there will be an eternal issue and obligation upon us. That of my Lord Chief Justice North, about "the Proclamation against Petitions, &c." is not worth mentioning in this Address.

Address. Do you mean to come again with Addresses which are not acceptable, to have them laid by, and not answer your expectation? I cannot give my consent to this Address.

Mr Sacheverell. Though I agree to thus much as is done, yet not upon the fingle foot of Popery, &c. I cannot think you do right to the Nation, if you do not declare how we came into our misfortunes. It is not only Popery, but the Ministers have a mind to have all in their own power, and fet up arbitrary Government. I cannot be fettled in my mind without enquiry into the Pensioners; and after the Ministers who had drawn us into a War, and got Money, and how the Army was continued after an Act for disbanding it. It shall never go from me—let Parties be who they will. One step to our ruin was the breach of the Triple League. Do we not know what vast sums were given to pay the King's debts? Two millions, &c. and how that Money was fpent to carry on a War with Holland? And how men were encouraged to go into the French fervice, notwithflanding a Proclamation to the contrary? And how they forced men out of Scotland, and were commanded to return? And your Vote, "That if they went into the French service, they were betrayers of your Liberties?" He that gave you notice, was clapped up for his pains. I cannot think that of Popery is your only care. Scotland, we fee, is ruined, and yet Popery is not plainly come in there. If you represent not these things to the King, you give not the Nation a true account of your actions.

Sir Nicholas Carew.] Cure Popery, and you cure all. I do not agree with him, &c. I hope you will keep out a Popish Successor, and then all the Designs of the Ministers will vanish.

Mr Hampden.] Popery will bring in Arbitrary Power, and Arbitrary Power Popery. No doubt, all those things Sacheverell has enumerated, are great evils; and some are in the Address, and a great many not in, but may be matter of time; but shall we do nothing in the

mean

mean time? If we fear nothing but Popery, we fear every thing. There is nothing when Popery comes in, but to destroy your Souls, or lose all you have in the World. To represent all that Sacheverell has moved, would make a Volume. You may lay aside the Address, if you please.

Sir Thomas Lee.] Though it be very desirable, that a great many things Sacheverell has told us of might be represented to the King that are ill, yet I would not lose this Address for want of them. If there be "Pensioners," the biggest thing is omitted. Corruption of Parliament strikes at the root of all, to destroy you by Law; you can never recover that; but if not by Law, you may recover in time.

Colonel Titus.] Was this matter of "Pensions" any part of your Debate about Tangier? And if all the rest mentioned were put into the Debate, it must be a History. Sacheverell has told you a great deal of truth, but if you will represent the State of the Nation, then it will be necessary to make a Remonstrance. Whatever Amendments you will make, you may, but agree with the Committee.

Sir Charles Sedley.] I cannot give my consent to this Address, because the King's Message was "for your Advice," and I see no "Advice" in it. Pray recommit this Address, either to make a better Answer to the King's Message, or a better Remonstrance of the State of the Nation.

Sir William Temple.] This Debate is upon an Answer to the King's Message relating to Tangier. I have observed in the Debate, that the Address is too large for the occasion: The building is too heavy for the foundation. That Debate came to a Question, viz. "The Committee to draw up an Answer to the King's Message about Tangier, &c. upon the Debate of the House." The Committee have acquitted themselves very well. As to that now spoken of, I would not make the Address larger, especially in bringing the weight of Arbitrary Power to the foundation of Popery. I would not particularly speak of so many

many Ministers, &c. for that will reflect upon the King. I will never defend the conduct of the Ministers. God hath made him a great and a good King of England. and he might be great, if he had fallen into good hands, and therefore I would not have things run to fo great a height upon all the Ministers, because it is impossible, without reflecting upon the King himfelf. As for the Papists, and ill Counsels, it is not for mortal man to defend fuch unparalleled ills, as they have done, both at home and abroad, and stories cannot produce the like. I do not defend them, but the King, from any imputation, because in the King's natural disposition he defends none of them. If this Address be strained higher than the Debate, Motions may be made, because it does touch matters that you may be informed of from abroad and at home. As for what was mentioned by my Lord Keeper, in his Speech, of the Triple Alliance, I believe he was true to the Nation in his Ministry, and I am forry there should be any reflection upon him. Many foreign things may be laid before you, which will be the work of a Grand Committee, and not proper in this Address to be presented to his Maiesty.

Mr Sacheverell. I agree with Temple in what he has faid about the Ministers, " That the King might have been great, had he fallen into good hands." If my Lord Keeper, fo worthy a man, was compelled to what he opened in his Speech, those Principles were not altered, but are the same still. It is not shifting Ministers that will do us good, but if we once come to shift Principles, we may be on our old foundation. Temple tells us, "For the King's fake, we must not reslect upon so many of his Ministers." But if there be a Cabal, and we cannot come at them, the King is as unfafe as we, and may lose the affections of his People, and those men aggrandize themselves, to his ruin, and ours. I cannot but recollect the Articles of War, made for the Army at Blackbeath, which bound the Officers to obey every Order they should receive in the King's name, and if they get Commissions.

missions. I know what will become of our condition; it will never be mended.

Sir William Temple.] Sacheverell feems to imply, as if I would hinder the unravelling the Ministers. I faid only, " If the House will unravel that Debate, it must be more folemn, fitter for a Grand Committee." I would neither defend the Memory of those that are dead, nor preserve those that are alive. I have no reason to hinder that Debate.

Mr Booth.] The King asked "Advice" of you in his Message, and this Address has not one word of "Advice". in it. I wish you would give the King "Advice," and that you had done it fooner, or fuller; but if you incline not to do it fuller, pray mend the Address, that it may be more like an Answer. We know not the State of Tangier, and can never think maintaining it necesfary till it be annexed to the Crown. Ill men can eafily turn this into ill Counsels, to make Tangier more tenable, to fit it for fale to the French. What became of Dunkirk after it was made fit for fale, you know. I would not, by a fide-wind, give Money; therefore I can-

not agree.

Mr Hampden.] I wonder to hear it faid, "That in this Address we give the King no Advice." The King's Message is only " for Assistance," not " for Advice," only for support; and will you give "Advice" without consideration of the condition of Tangier, and full enquiry into all the Matter? The Resolution of the House was, not to consider of it. Every Gentleman knows, that all our calamities are in Popery, and not to repair Tangier, unless you will augment your fears. I find here is a stress laid, "That there is nothing said in the Address of Arbitrary Power." In the time of the Long Parliament there was an Address about Popery increasing in England and Ireland; it was about eight years fince; upon an imperfect and obscure memory, the Vote, I think, was, " The House would give no Money till they were fecured in Religion, &c." The fame Gentleman (Sacheverell) that moved for that Vote then (and he had done the House great service in it) looked upon Popery as the way to introduce all the rest of our fears. I only take this liberty, for your service, of speaking again, to take the matter of fact right.

Lord Cavendish.] This is a long Address. I desire it may be put Paragraph by Paragraph. It is desective as to the historical part of Popery: The Toleration given by the Declaration: The Pensioners in the Long Parliament, I would not have that forgot neither, nor the vio-

lation of Liberties and Properties.

Colonel Birch. I am not against reading it Paragraph by Paragraph; but it is faid, "Our Civil Liberties, as well as Properties, should be taken notice of." It is most true that part of the Address does not touch any thing of it. There is hardly the like in any story of the Nation, of that which was put upon us in the Triple League; what that League cost us to make it, and what it cost to break it. We are beholden to a Gentleman that fat above, that Gentleman that reminded us of these things. man's very words were returned us in one of our Addresses about this League. I think he had a hand in drawing it. If this Address will serve your turn, cast your Garment over it; it may be, else, it may press where you never intended it. The Bill for Exclusion of the Duke of York, &c. was for our fafety, and if the Lords will not fend us fomething else, then you may remonstrate; but I would not yet; but if not, you must lay open the State of the Kingdom, and then it will be time to fay fomething of what is now offered, and not in this Address, which has already a graft full big enough for the stock; and put the Queftion, &c.

Mr Leveson Gower.] The Promises made to the Nation at Breda are not kept—But change the old for a new pack, and you have the same Knave still. For preservation of Order, put not the Question for the Address general, but Paragraph by Paragraph.

Sir William Temple.] To the Orders, &c. I have heard a reflection from that Member upon the King, and as it

is my duty, when I hear any reflection upon the King, I would have him explain himself what he means by that " of the King's Promise at Breda nothing was performed."

The Speaker.] All he faid was directly upon the Ministers.

Mr Leveson Gower.] I made no reflection upon the King—but those that come after those Ministers should not fall easily. I am the worse by 40,000l. for my Loyalty, and what Temple said was a great reflection upon me, though I believe he intended it not.

Sir Thomas Meres.] What was faid was in relation to the Breda Declaration. I know the great Loyalty of that Gentleman (Leveson) and I believe we did rather mis-

take him, than that he faid it.

Mr Leveson Gower.] The King's Promises at Breda were not effectual, because the Ministers have broken them. I know that Gentleman's (Temple's) Loyalty, and

my own too.

Sir Henry Capel. What are we afraid of? Now it is fpread abroad that this Great Man is to go into Ireland— Are we now afraid of our Property? If fo, let us go home. We have the best Reason to judge whether Popery be coming upon us, or not! The Long Parliament, as faulty as it was, in all their Votes were against Popery. When they thrust Lord Clifford out of the Council, was it not for Popery? And what followed? We could get no Bill against Arbitrary Power. Then comes another Parliament; and what did they? They began upon Popery, the first thing, and have proceeded most against Arbitrary Power by Popery; and I hope we shall have no more of any distinctions betwixt them in our Debates. I am not for a Representation of the State of the Nation now. You fee, Tangier is in ill hands, in the hands of Popery. All our miseries are founded upon Popery, and men's minds were provoked with the loss of our Bill in the Lords House. This Address is an Answer to the King's Message; but a Representation of the State of the Nation must have another style. A few hands are not

to be trusted with so weighty a matter, and go as far back as you will in it. In this Address your Committee have pursued their Instructions, and put the Question for it.

Mr Trenchard.] After the great pains the Committee has taken in drawing this Address, I hope it will not be laid aside; and, that it may have no farther interruption, pray put the Question.

The Address passed *.

Monday, November 29.

Sir William Jones reports from the Committee of Lords and Commons, appointed to adjust matters relating to Lord Stafford's Tryal, viz. the Lord High-Steward, the absence of the Bishops, &c.

Mr Sacheverell.] All of the Long Robe know that we have no perfect Book of the Crown-Law. My late Lord Chief Justice Hale was very forward in collecting them, in his time, to have them printed; but it goes not on fince his death. I hope that by them we may know the King's Right, and the People's, for the security of the Nation. I move, therefore, "That his Executors may be desired to proceed to the printing of them."

Sir William Jones.] This great man's Works will do the Nation no hurt, but a great deal of good. But should this Book come into other hands, I know not how it may be altered. Lord Coke's third Institutes had never come out as they are printed, if he had been alive; a little thing inserted may be to our own prejudice. If any thing be inserted, it is not his own, and may be of great prejudice. I move, "That his Executors may proceed to print them."

Colonel Mildmay.] This is an excellent Book, if it be rightly printed; but consider whether it be not necessary to inspect the printing of this Book, that it may be done in a safe way. I desire, "That a Committee may be appointed to inspect it."

^{*} See it at large in the Journal.

[Ordered, That the Executors of Sir Matthew Hale, late Lord Chief Justice of the Court of King's-Bench, be desired to print his Manuscripts relating to the Crown-Law; and that a Committee be appointed to take care in the printing thereof; viz. Mr Sacheverell, Sir William Jones, Sir Francis Winnington, &c.]

Sir Francis Winnington.] The House sat bare, at Lord Strafford's Tryal, and, without doubt, as a Committee. I would proceed so fairly with the Lords, as not to stand upon any thing that may seem to hinder what you defire. Why should you, at this time, go a different way than in Lord Strafford's Tryal? Pray let your Committee have your directions.

Mr Sacheverell.] I would give the Lords notice so far, that you will send a Committee to prosecute the Impeachment; but if you do not preserve yourselves as a House, upon oceasion you may have prejudice by it. I would send to the Lords, to let them know, "That you will only send a Committee to prosecute the Impeachment."

And accordingly the Lords had notice.

A Petition of Mr Dangerfield was read, showing, "That his allowance, of eight shillings a week, is withdrawn from him, &c."

Mr Harbord.] You fend Addresses to the King, and there are those about him, who tell him what they please. Our Grievance lies here; the King of himself is graciously inclined to his people; but some represent to the King, that this Plot is so terrible to us, that we cannot forgive what transactions are past. But till God bless us to show the King that we desire nothing but the happiness of the Nation, we are not safe. Therefore we see where our misery lies; our actions and designs are misrepresented. I hope, when the Tryals are over, we shall take time to represent to the King, "That, if his Majesty will stick to his people, they will stick to him." I would refer this Petition to a Committee, to enquire how Dangersield's eight shillings a week for prosecution of the Plot comes to be withheld from him, and nothing more.

Mr Hyde.] I am surprized to hear of this eight shillings a week to be given Dangersield out of the Treasury. I remember, forty shillings a week was taken from him by Order of Council. This eight shillings a week, lately given him, is by way of advance.

Sir William Jones reports, That the Committee of Lords did answer our proposals of Saturday. We asked, "Whether this Commission for the Lord Steward was the same as the last Parliament?" The Lords answered, "That the Commission was the fame as the last Parliament, only as that was for the Tryal of the five Lords, this was only for the Tryal of Lord Viscount Stafford." To the second, "Whether the Lords Spiritual would be present at the Tryal," their Lordships have returned assurance, "That they would not be present." They thought fit to acquaint you, "That they had ordered the Prisoner to be there to-morrow morning at ten of the clock." They took notice of one thing, "That when we were to ask a Question, we should apply to the Lord High-Steward." To this we faid, That the Lord High-Steward was not necessary to apply unto: We think not to apply unto him, as "his Grace," but to "myLords." The Lords feemed to receive it well, and believed there was no difference betwixt the Houses, and in case other matters should arife, they would adjourn to nine of the clock to-morrow morn-

Sir Thomas Lee.] I would have a care to enter it into the Journal, "That the Lords Spiritual will not come at all," and have the Journal carefully read to-morrow morning.

The rest of the Formalities are, by Order, in the Journal.

The Speaker reproving Colonel Mildmay for looking back-wards from the Chair, when he spoke, said, I must reprove an old Parliament-man, when he looks backwards and not forwards.

Sir John Morton.] You ought to take care that the place we fit in, in Westminster-Hall, be safe, for, before God, it is very dangerous.

[Ordered, That a Committee be appointed forthwith to view the scaffold erected in Westminster-Hall, and they are impowered to send for such persons as they shall see occasion to make use of in this service.]

Nevember

November the 30th, and December the 1st, 2d, 3d, 4th, and 6th, were spent in Lord Stafford's Tryal *.

Tuesday, December 7.

[Debate on demanding Judgment against Lord Stafford.]

Sir William Jones.] Demanding a Conference with the Lords, about the place of giving Judgment, will be nothing but delay; it may be, eight days more may be spent, as we have done already in the Tryal. The Lords

cannot alter the place of Judgment.

Mr Powle. The business is of great consequence; and let not your zeal bring you into errors. Admitting this a Precedent, it will be of great importance. What is visible is in the Lords Message, "That they have appointed, &c. to give Judgment against Lord Stafford to-morrow morning," and you demand it; will not that put you upon a Precedent, that you must fend and wait for their Judgment? I should be loth to stay and wait here for it. I would not have it in the Lords Power to ftop Judgment. The Precedents are thus, "That the Lords fend you word, they are ready for Judgment, if you are ready to demand it." I defire, that, at a Conference, the Lords may have fuch a Meffage fent them. Though the Lords will not confer with you about Judicature, yet they cannot deny you to confer about Forms. I would fend up for a Conference, and the Lords will not deny it you, I am confident.

Sir Thomas Lee.] I would fend fome Message to adjust this matter, and a Conference is the easiest way. Im-

confinement for above ten years; was timorous by nature; had the popular tide against him; had the ablest and most zealous Members of the House of Commons for his Profecutors; a large and considerable body of his Judges, the Peers, were on the same side; and his Majesty, though he pitied the Victim, had not Resolution enough to prevent the Sacrifice. Ralph.

^{*} Many Writers, and in particular Mr Worth and Sir John Reresby, are of opinion, that this Nobleman was selected by the Commons to bear the fins of the whole five, on the presumption that he was least capable of defending himself, and that his very spirits, as well as his parts, would fail him, under the weight of such a Prosecution. He was old and insirm, had been under

peachments of capital matters have been rare, and the methods so dark, that we have little guide. I suppose you will go down to hear Judgment—You go upon this notification, and if you make not a demand of Judgment, they will follow the course of Justice. According to the Judgment of this day, depends the Plot. Whoever thinks Lord Stafford not guilty, thinks there is no Plot. That being the weight, makes the difficulty. If you will send to the Lords for a Conference, three or four Gentlemen may withdraw, and show you some soft way of keeping up your Right, without giving the Lords occasion of offence.

The Speaker reads out of the Journal, in the Case of Sir Francis Mitchell's Impeachment, "The Lords sent the Commons word, they were ready to give Judgment, if the Commons were ready to demand it."

Colonel Birch.] I would confider what I am afraid of. I am so dull, that I cannot see the danger in demanding Judgment, &c. But there is vast danger in demanding a Conference. You would not demand it, till you know that the Lords are ready for it. If you go now and demand Judgment, and they give it at their own Bar, you may take notice of their intention of doing it in Westminster-Hall.

Sir John Trevor.] Words and accidents may arise at a Conference, which may occasion disputes, and it is not a time for us to dispute. Upon the Evidence, I am satisfied clearly that this Lord is guilty, and so I would make no manner of bones to demand Judgment. If you demand Judgment, you demand your Privilege, and in that you explain their Message. I would have no more

delay, but go up and demand Judgment.

Sir Francis Winnington.] A little thing is apt to make a disturbance, when God knows what state our Religion is in. The Message is, "That the Lords will bring Lord Stafford, &c. to hear his Judgment, &c." If a sinal one, it is strange, before having determined the fact. I believe there is no Precedent that the Lords have passed Judgment the same day they find Guilty, or Not guilty. Simi-

Similitudinarily, it is like a Verdict; else they will have nothing to give Judgment upon. If the Lords should delay Judgment a week, or longer, we may demand Judgment; therefore it is rational to demand Justice quite through the cause. But if presently you should go and demand Judgment, it would look as if some difference did arise betwixt the two Houses. I am absolutely against Conference; we must have regard to Religion and substance of things. I do not find that the Commons demand Judgment till the Lords have determined the Fact, or if it looks like delay.

Mr Paul Foley.] You have vindicated your Right to demand Judgment before the Lords give it, and the Order last night does presume that Right. If you stay till the Lords have found Lord Stafford Guilty, or Not guilty, they may give Judgment before you demand it. By their Message, it seems, they intend to give final Judgment to-morrow. Therefore I would pursue your Order

made last night.

Serjeant Maynard.] It would be wonderfully unreafonable, should we demand a Conference of the Lords, before we have any thing to ask it upon, in a thing of this vast consequence. "To demand Judgment"—What is that? To demand Death, without Precedent. We demand Judgment against Lord Stafford, as a man guilty. But it is said, "If the Lords delay it, then we should ask it;" but there has been no delay, but now instantly to go upon them upon that supposition! If you go and demand it before they are ready to do it—Upon demand of Money, I may pay it before he ask it, but I am not bound to do it.

Colonel Titus.] Consider the matter, and if it be possible, avoid all difference with the Lords. Suppose the Lords should say, "It is true the Commons have a Right to demand Judgment, but it is when we have found the matter, whether Guilty, or Not guilty, and then the Commons may demand Judgment." If we demand it before it be ready, we cannot have it. The objection is, that the Lords should come and

find

find him Not guilty, and give Judgment before you demand it.

The Speaker.] The Lords tell you they have appointed the Prisoner to-morrow to hear Judgment, now are you debating what Judgment. You are interpreting the Lords Judgment. If this be taken for a Verdict, then it is right, but it is a Judgment.

Col. Birch.] By the Message, there is sufficient implication that it is a Judgment, and your Right is, to demand it; others say, it is unreasonable. I would therefore send to the Lords, to say, if they be ready to give Judg-

ment, you are ready to demand it.

Mr Harwood.] I believe not that the Lords will take away our Privilege. What will be the consequence of taking it away, but to save a person, that any man that heard the Tryal, who ever found him not guilty, would have had the King's life taken away? I am not in fear of the Contest between the Lords and us; let us not be so timorous of a bug-bear. We need not be so timorous to justify the Rights of the People. If the Lords be ready to give Judgment, you come and demand it.

Mr Finch.] By the Arguments and Precedents I have heard, you must have information from the Lords, whether the person be Guilty, or Not guilty. Till the Lords have determined any thing in Arrest of Judgment, you are not ripe for it. We ought to go into the Hall. If upon Judgment the Lord Steward proceeds to Sentence,

we had better right ourselves afterwards.

Mr Paul Foley.] If you fend fuch a Message to the Lords, you put them upon altering their own Order. I see no inconvenience in demanding Judgment presently, you having had intimation from the Lords, that they are

ready to give it

Sir Thomas Clarges] Finch has faid, "He has heard that the Lord Steward's direction is, that as foon as the Lords Verdict is pronounced, he is to give Judgment upon the Prisoner." Consider where you are. You demand Judgment, upon intimation to the Lords, "That you are ready to demand it." And it is to be supposed

posed you are present there; else your dignity will be impaired. Therefore I would have a Message to the Lords, "That if they are ready to give Judgment, you are ready to demand it."

Mr Montagu.] Pray put the Question, for the Lords are

just now going into Westminster-Hall.

Sir Robert Carr.] If the Lords will pretend to give Sentence after the Verdict, before you demand Judgment, I wish the Managers may quit their Box, and leave the

Lords by themselves.

Mr Powle.] I wave my Motion for a Conference with the Lords; you ought to prefume that the Lords will do things regularly; if they do not, you may take a course to right yourselves. If the Lords should proceed to Sentence before Judgment be demanded, the Managers may have order to interpose, "That the Commons expect that Sentence should not be given, till it be demanded." If they will not, the Managers may retire; if they do, you come upon better advantages afterwards.

Mr Trenchard.] I wonder why the Profecutors should demand Judgment before they know whether the Lords have found the Prisoner Guilty, or Not guilty. But if the Lords proceed to Judgment before it be demanded,

I would have the Managers retire.

Sir Thomas Lee.] I would warily confider the Message, before we send to the Lords. I fear that such a Message was never sent before; no Precedent of it; and the Lords take exception at it, and where are you then? May not the Lords take exceptions, when they tell you, they are ready to give Judgment? I am asraid, if you go this way, which is quite new, it may create a difference with the Lords.

Serjeant Maynard.] I like that of the Managers retiring worst of all. It is not Judgment, unless it be demanded. In Lord St Albans's Case, the Lords gave Judgment upon the proof, and the Commons did not demand it; they did the same in Sir John Bennet's Case. All we have, is at stake now; our Laws, our Lives, our Religion. When you sent a Charge against this Lord, Vol. VIII.

it was in order to Tryal, and the Lords fend to you to demand Judgment: What will the World fay, if you demand it not? I hope the Lords will not give Sentence

before you demand it.

Sir Francis Winnington. I propose only Substance and Form; Form, to be aiding to Substance, to have the thing done. I would preferve the Form, and not have the Substance interrupted. There is no Precedent that ever Judgment was demanded before the Fact was found; if that be fo, I would not run untimely to demand Judgment. The Commons demand Judgment, either because they have a Right to it, or because they fear delay. would defire Judgment in a Parliamentary way. All I fear is this, to have Forms entangled to hinder Substance. The Managers may fay, they defire, in this Caufe, the way and method of Parliament, that Judgment may not be given, till it be demanded.

Sir Henry Capel. I think you are in the dark, because you know not the Lords Order. If they give Judgment as a Verdict, and pass Judgment immediately, we are precluded, and the confequence may be great. If you fee we are precluded, the Managers may defire to

be heard.

[Resolved, That the Committee be impowered, in case the House of Lords shall proceed, immediately after the Fact found, to give Judgment, to infift upon it, "That it is not Parliamentary for their Lordships to give Judgment, untill the same be first

demanded by this House.

The Committee of Commons were present at the Court in Westminster-Hall, when the Lords found William Viscount Stafford Guilty of the High Treason whereof he stands impeached; and then the whole House went up with the Speaker to demand Tudgment *.

[December 8. omitted.]

* The Tryal of Lord Stafford was very august. The Earl of Nottingham was the Lord High-Steward. When it came to the giving of him. Duke Lauderdale condemned Judgment, fifty five of the Peers him; and so did both the Earls of gave it against Lord Stafford, and Nottingham and Anglesea. Lord Ha-

demned him. Lord Arundel, afterwards Duke of Norfolk, though in enmity with him, did acquit thirty one acquitted him. Four of lifax acquitted him. Lord Notting-the Howards, his kintimen, con- kam, when he gave Judgment, de-

Thursday, December 9.

Colonel Birch reports the matter of the Information given to the House by Mr Peter Norris *.

Mr Hyde.] The Letter from my Lord of Effex will give a clear account of Mr Secretary Jenkins's proceedings in this matter; but because he is a Peer, your Reporter

was tender in reading it.

Colonel Birch.] I have in my hand a Letter from my Lord of Esfex, where his Lordship has given a Narrative of fo much of this matter as concerns himself, viz. "There was one Dowdall, a correspondent of Dr Tongue, an Irish Priest in Flanders, who was one that did manage the Plot in England and Ireland. I have feen feveral Letters of his, and have had a character of him from a Merchant, to be an honest man. I fent a Letter to Mr Hyde for money to bring this person over, that we might fee the reality of this matter. I had twenty pounds, and my directions were only to bring over this man. Mr Secretary Jenkins fent to have him apprehended at Dover, where Norris was apprehended that went to fetch him over. I know nothing of Instructions, Paper, nor Cyphers found upon Norris; but Dowdall came not over: I suppose brought to his end by the Priests."

Mr Colt.] I would know how the Privy Council came to have a description of this man. It may be, the French Ambassador has had some influence in Councils.

are of two minds, it feems.

Sir Leoline Jenkins.] It is my duty to give you an account of this matter, and I shall do it as near as I can. A few days before the 29th of May last, Dr Tongue came

Speeches he had ever made. But he committed one great indecency in it; for he faid, "Who can doubt any longer that London was burnt by Papists?" though there was not one word in the whole Tryal relating to that matter. Lord Stafford behaved himself during the See Vel. VII. p. 459, 60. whole time, and at the receiving

livered it with one of the best his Sentence, with much more constancy than was expected from him. Burnet.

> * About his being detained Prisoner at Dover, being sent tr France, to bring over one Donud Ill. a Priest, who could discover much both of the Irish and Engr sh Plot.

to me, and told me, "There was a Person in France, that knew much of the Plot." I asked his name, or the Person that knew him; but he said, "He could not do it." I defired a Description of the Person in writing; he gave it me*. There being a Committee of Council fitting next day, it was a caution that became me, to give them an account of it. I had a verbal Order to feize him. The first Order refers to this leave to seize this man. I fent a Letter, to that purpose, not only to Dover but to Rye +. They stopped the Person at Dover. If any thing has been done unjustifiable, I must answer it. The Letter was written the 29th of May, and arrived at Dover the 8th of June. He was taken and carried before the Mayor of Dover, who thought it reasonable to commit him, and he took Papers upon him. Legget, the Messenger, had Order to bring him before the Council,

Morris, a Scotchman, handfome, neat face, sanguine complexion, short nose, bald-pated, white wig, slen-der body, little stature, civil and smooth in discourse, speaking French, aged 34 years, more or less, Taylor by trade." And under this Description, written with another hand and ink, these words, " Went into France on Wednesday was three weeks, to bring with him a Priest. Delivered to Secretary Jenkins, Moy 29, 1680."

† The Letter was as follows:

"SIR,

" The Right Honourable Mr Secretary Jenkins, being hastily called this day to wait upon his Majesty at Windsor, hath commanded me to fend you the inclosed Description of a Person, who, if he shall happen to come from France, and land at your Port, Mr Secretary faith, you will do the King and Kingdom a great service, if you will keep a strict eye upon him, and the company that shall arrive with him, till they be all brought before Mr Mayor, or other Chief Magistrate of your Town, whom

* Viz." Peter Norris, some call him Mr Secretary desires to offer the faid Persons the Oaths of Allegiance and Supremacy; and, in case of their or any of their refusal of the same, to secure them, and deal with them according to Law; giving Mr Secretary an account, with what speed may be, of all the Proceedings in this affair. If fuch a Person as is here described should come, and make no bones of taking the aforefaid Oaths, yet, in case Mr Mayor, or other Chief Magistrate, before whom they are brought, shall have reasonable ground to suspect, that he is the man fo described, and that he hath one or more in his company, who may be reasonably suspected to be Priests, some handsome course is to be taken to detain them, till Mr Secretary can be acquainted with what is done, and fend fuch farther directions as shall be thought neceffary. Mr Mayor's authority, with your prudence and zeal in this matter, will, I hope, produce a good effect upon this command.

I am, SIR, Your very humble fervant, JOHN COOKE."

in Custody, to justify the detention of him. The Papers were ordered to remain in the Council-cheft. Upon the whole matter, I never heard of Dowdall till I faw Norris's Papers. I thought it my duty to do what I did. I thought it Treason for a Romish Priest to be upon English ground, and Felony in Norris to receive him. In my Post, I could do no otherwise than obey my fuperiors. I never heard of them till the Papers were fent over, and Norris was detained at Dover.

Colonel Birch.] Says Jenkins, " The Description of this man was fent to Dover." He can only know what use he made of it. The Description does not appear to the Committee when made, or whether ever fent.

Mr Dubois.] Here appears to me to be foul play in this matter. If Norris had not difguifed himfelf, he must have been served as Dowdall was. There was a

Defign from the beginning to discover Dowdall.

Mr Harbord.] I do not think that the blame lies upon Tenkins. He who wrote the Letter (the Under-Secretary, Cooke) is a good Protestant; but something lies hid still. I would have Birch asked the Question, "Whether my Lord of Effex knew the man?" This Dowdall, without doubt, came to his end with violence. If Birch can tell you of no Character that my Lord of Effex gave of this man, I will tell you.

Colonel Birch.] I took Mr Sheridan * to be a dangerous person, but I had it from the report of others. Sheridan was driven as far as well the Committee could

drive him.

Mr Hampden.] Sheridan had the Description of this man (which he gave Jenkins) from Dr Day *. But what need Sheridan to be so officious to discover the Plot? How came he to intermeddle, fince a man

* These Persons, in the Report Duke at his Court at Brussels, and of the Committee, are thus descri- came over with him in the same

" Anthony Day, Doctor of Physic

bed: "Thomas Sheridan, a Gentle- yatch." man, who affirmed himself a Protestant, born in Ireland; heretofore to the late Army in Flanders." The employed in collecting the Revelatter confessed himself a Papist. nues there, and lately with the

that knows the Plot was gone over to fetch Dowdall? Sheridan was not examined: What made him fo forward?

Colonel Birch.] I wonder why we should go so long about the bush. Doctor Day tells Mr Sheridan, "That the whole Plot was laid open, for one was gone for beyond sea, that knows all the Plot." Sheridan acquaints the Secretary, and says, "I am come to tell you there is one sent over for a Priest, that knows all the Plot." Now the life of the thing is here. Why should this man, who discovers the Plot, be described at all? And why should such care be taken to secure him? There is the life of it.

Mr Foley. This matter is of feveral parts. First, how Dowdall came to his death, and the Discovery not found out? And another part of it is, how far Mr Secretary Tenkins is concerned in this? The Secretary told you, "He knew nothing of this, but that a man was to fetch a Priest, and he thought fit to secure that Priest." This stands thus: Now he was told Norris was sent for the Priest; but this Priest was to discover the Plot, and give Evidence. Jenkins tells you of an Order from the Committee of Council that Dowdall, should have leave to come over; and I think the Secretary knew this person to be a Priest, and an Informer. Sheridan was twice with the Secretary. It must be either the Secretary, or Sheridan, that prevented Dowdall's coming over. Upon the whole matter it appears plain to me, that it was to Sheridan fays, "He heard fuch a thing, stifle the Plot. as that a person was gone over to setch a Priest that could discover, &c. but had no legal Information of it."

Mr Garroway.] I think you are in a labyrinth. Here is an Information, &c. and doubts how it came to the Secretary. The iffue will be, if Sheridan can be immediately brought to give you a full account of this matter, that there may be no tempering

that there may be no tampering.

Mr Harbord.] When I was in Ireland, this Sheridan lay under an ill character; my Lord of Effex*, as far as

[·] He was Lord Lieutenant, &c.

he was able (in those times) did support the Protestant Religion. He has a brother, a Clergyman, so supported here by a great Clergyman, that my Lord was forced to prove him the worst of men, and was scarce able to keep him out of Preferment, though he had preached Atheism and Blasphemy. I would have this man seized presently; let the matter be answered, and you will come to the bottom of it.

Ordered, That Doctor Day and Mr Sheridan be forthwith brought, in custody of the Serjeant at Arms, to the Bar of this

House.

Sir Nicholas Carew.] I am informed that Sheridan stands in Coleman's Post. I would have his Papers searched.

A Committee, consisting of Lord Annesley, and others, were sent to search his Chambers for Papers, who report, That they found a Paper, in effect thus: "The Duke depends upon his Brother's resolutions—What shocks me most is, that the Duke mistakes himself in men, Sunderland, Godolphin, and Hyde—One to retrieve his Fortune, the other to make Romances—But he should have Persons that love Honour—I see no room for the Duke to be served in this occasion—"which is to ask Pears from an Elm Tree," according to the Spanish Proverb."—No Name nor Place to the Paper; the Date, October the 1st, 1680. There were other Papers, as a Reference about Lord Inchiquin, relating to Tangier.

[Mr Sheridan at the Bar.]

The Speaker.] Did you ever fee that Paper?

Mr Sheridan.] I faw it just now. I do not know whose hand-writing it is, nor whose the Paper is: I am sure it is not mine; whether it be a Copy, or an Original, I know not, nor how it came thither. I think it some foul Paper, thrown in by chance. I read the Paper last night, and know not when I first read it. I read it alone, and never, that I remember, did I read it to any person. I own two lines at the bottom to be of my own hand-writing. About the beginning of October, at the beginning of the Parliament, I lodged in York Buildings. I was about a night or two from my lodgings. Afterwards I lodged at Brunetti's, and was not out of Town, to my knowlege, in October. When the Court was at Newmarket, I was not a night out of Town, only one day at Windsor, and came home at 14

night, the beginning of October. I believe it was before the Parliament met, because I was at the same lodging I am in now.

The Papers in his pockets were ordered to be fearched, and

the Serjeant to stand by.

The Speaker.] You have not answered clearly. You have the character of a cunning man. It is expected that

you should answer clearly.

Mr Sheridan.] When Lord Annesley asked me "how I came by that Paper," I told him, "I would give the House an answer." I know not how I came by that Paper. Had I thought it material, I could have put it under lock and key. I believe I did read it before last night; but I cannot tell when.

Colonel Titus.] When Sir William Roberts asked him "Whether this Paper was of his own hand-writing," he said, "He had it from somebody else."

The Speaker interrogated Sheridan concerning Dowdall

the Prieft, &c.

Mr Sheridan.] I know not nor ever heard of Dowdall the Priest, before I was examined at the Committee, and I never saw Peter Norris till at the Committee. I heard of Norris about May: Doctor Day told me his name two or three days before I spoke with Secretary Jenkins. I asked him what news? He said, "There was one Norris did tell him of a Priest that he was to fetch over, that knew as much as any man of the Plot." I thereupon went and told Secretary Jenkins. Day said, "Norris was to go into France to fetch the Priest." I cannot tell whether he said "He was gone," or "going." I never heard any discourse about Dowdall, but about Norris. I believe Norris went to fetch somebody over: I suppose so, because Day told me. I only told Jenkins that he might enquire of Norris what he knew of the Plot. He withdrew.

The Speaker.] The Description of the Person of Dowdall must be from the Committee of the Council, or the Secretary, or the Commissioners of the Treasury.

Dr Day, at the Bar.] I never heard of Dowdall, nor do I know him to be a Popish Priest. I have had discourse with Sheridan, of a Priest that would discover the Plot. It may be, I might have heard of him. In May last, about the 8th or 9th, I was in Sheridan's Chamber. I asked him what news? He told me, "There was one Norris was to go into Flanders for a Priest that could tell more of the Plot, and that the Plot now would be brought to an end." Says Sheridan, "Enquire what kind of man Norris is." He described him by one John But-

faid

ler, and Butler gave me a Description of Norris. Butler sold brandy and tobacco. Butler died about the 14th of August. I desire I may be permitted to go about my business, and I will wait upon you again.

Ordered, That Sheridan and Day do severally continue in Custody of the Serjeant at Arms, during the pleasure of this House; [and that no Person be admitted to come to them, but

fuch as shall have occasion to bring them necessaries.]

Friday, December 10.

Mr Papillon reports Sheridan's Papers.] There was one Letter figned "Peterborough," without date, supposed to be written the day Sheridan was at the Committee, of what passed. Some other Papers, of no consequence. The Letter Lord Annesley brought, &c. viz. "If I could do the Duke service, I would do more than I will say. His safety depends upon his Brother's resolutions. Every one knows his constancy and steadiness, but his mistakes in men shock me. As for Sunderland and Godolphin, no man thinks but they will sacrifice him; they are men of Court Education. They do not depend on Love and Honour, and are not acquainted with Philosophy. One is for retrieving his Fortune, and the other for making Plays. No room for the Duke to be secured, unless from his Brother, from whom I never expect any thing, no more than from an Elm, Pears."

Mr Paul Foley.] I would know, Whether that Letter be Doctor Day's hand? I would have him called in.

Mr Hampden.] Your true punishment is imprisonment; not as in other Courts, where it is but for custody. Bringing a man upon his knees is but a Ceremony; your true punishment is Custody. Now you have given your Opinion of the Fact, it will appear no more than that he has offended against your Vote, and is discharged. Pray let the Punishment follow the Judgment.

The Speaker thus spoke to Doctor Day.] By a Letter there appears a correspondence betwixt you and Mr Sheridan. If by writing, how often? If by message, by whom? What familiarity had you with the person

faid to be dead? And if you had correspondence by Letters, show some of those Letters—Look on that Paper, wherein the Duke is mentioned, to know whether you

know that hand-writing.

Dr Day.] My acquaintance began with Sheridan, in Lei-cester-stelds, at my Lord Chancellor of Ireland's son's Chamber, he not being well. I had seen him in Flanders, at Brussels, in July and August last was twelve-month. I had not a word of correspondence but what I showed Colonel Birch. I never in my life did write to him from Flanders. I know not the hand-writing wherein the Duke is mentioned. As for Dowdall and Norris, &c. I had the Description from Butler, when I was with him about a distemper. He complained, "That the Plot beat down all trade, but, he said, he hoped it would be now discovered, for Peter Norris knew one that could discover all the Plot." I went home, and wrote this in a Paper, and gave it to Sheridan. He employed me to get the Description of Norris, and as a common thing I gave it him.

Mr Sheridan.] I take the Paper, wherein the Duke is mentioned, to be the hand-writing of one Mr Wilson, who lived formerly with me. I saw him yesterday at my own lodging. He lodges in the same house. The Paper with the figures is a computation of the People of England, by Sir Peter Pett, two years ago, and is of my own hand-writing, and that taken ten years ago by order of the Archbishop of Canterbury. (And gave account of some other Papers.)

Mr Harbord.] I would know, from whom this Defcription of Dowdall came?

After Sheridan had repeated what he had faid before, relating to Norris, &c.

Sir Nicholas Carew.] Now the matter comes home to the Secretary. I defire he may be heard.

Sir Leoline Jenkins.] I have nothing to fay, but to repeat what I faid yesterday. Sheridan came to me, and told me of this Norris, who knew one that could discover much of the Plot. I asked Sheridan, "Whether he would make Oath of it?" which I thought a proper Question. He said, "He had the information from another;" but whether from Dr Day, I do not remember. His information was imperfect. On the twenty-ninth of

May,

May, he brought it more perfect. Thereupon I thought it my duty to inform the Committee of Council, in order to prove it; and I had a verbal Order from the Clerk of the Council. My part was not to make the Information better or worse: My part was to do my duty. The Committee of Council, to take Informations of the Plot, fat one Day in a Week, and I thought it my duty to give them information of what I had heard, and they commanded me to stop Norris at Dover. The Letter was written by my Substitute. I thought it incumbent on me, when I was informed of one that knew of the Plot, and was gone out of England without the Council's knowlege—On confideration of the whole matter, Norris was thought fit to be feized, and was fo accordingly; and my Lord of Effex was prefent, who faid, "Poffibly, it may be one employed by Dr Tongue." Upon examining Norris, he was difmiffed, and it was declared, there was no farther cause of detaining him. As to the Murder of the Priest, Dowdall, and the Description of him, and that he came to a violent Death, there is nothing of it in Norris's Papers.

Lord Russel.] Norris went over, because he knew one beyond sea, that could discover the Plot. At this rate, any man may suffer imprisonment, upon

hear-fav.

Mr Papillon.] Norris went over, and did not acquaint the Lords of the Council. I would be fatisfied why it was Jenkins's duty to stop this man, because he had not

acquainted the Lords of the Council?

Sir Leoline Jenkins.] I was but ministerial in this. My duty was to acquaint the Lords, &c. and to receive their direction, or advice at least, to command the Mayor of Dover to stop him. My business was to carry the Information.

Mr Papillon.] This Description was near costing Norris his life. Several Descriptions were given of Norris. To the first Description, Jenkins is clear. To the second, he is charged by Sheridan. I do not know what stopping a man on the way, or road is, if ordered to be immediately diately sent up to the Council by a Mayor, or Officer, upon verbal Order, &c. But here is something lies hid (not to be discovered) from the eyes of the World—Without, they are Protestants; within, they carry on the Plot. (I speak not of Jenkins)—The manner of penning this Letter, to take Norris, looks like disguise. Consider the nature of it, how this Letter is penned. It sends a Description of Norris, &c. If he went to discover the Plot, the service was not great, to stop him. The Officer was to tender him the Oaths, &c. which if he refused, to stop him. "Let all the World know that; but if not, find a handsome way to detain him." Stop him, and not stop him; imprison him, and not imprison him. It looks with a Popish face upon a Protestant Business. I know not what it is.

Sir Francis Winnington. This matter is of mighty Importance, disheartening Witnesses. Every one of us may be, at this rate, in the Case of Dowdall. I shall not impute this matter to the Secretary, if he be not guilty of it, but I think he should withdraw, during the Debate. That Letter is the strangest—to discover the Plot!—but methinks it is to stifle it. The Under-Secretary is no more to answer for the Letter; then respondent superior. Read the Letter to the Mayor of Dover, &c. and you will find it thus: "The Secretary commanded me thus and thus." It may be, it was too venturous for the Under-Secretary to do it of himself. I know nothing of a verbal Order of Council. If the Secretary can produce an Order from the Council, it will go a great way in the Case. He is too learned and wise, to do a thing that may burn any man's fingers. As for Mr Sheridan, he is a second Coleman, and has been in great Transactions. But I will do the Secretary justice; he gave account to the House of what he did communicate to the Lords of the Council, and what Order they gave upon it.

Colonel Birch.] I will rectify a mistake. The time of Dowdall's Death was long before this Description. The Certificate of Dowdall's Death was "the 25th May, 1680,

between

between Dunkirk and Paris." There was a first and a second Description. It looks to me like a strange suppression of the Plot. He had Secretary Coventry's Pass for Dowdall's stay at London for a month—A Pass for Gilbert Spence—He was to fetch over Dowdall. He finds himself described, but yet went to Dowdall, and came back; and in two or three months Dowdall died, not without suspicion of violent death. My Lord of Esfex told me, " He did acquaint the Committee of Council with it, and they, by Mr Hyde, ordered Norris twenty pounds to bring over Dowdall." But here lies the stress. Day tells Sheridan the News; Norris goes over, and Sheridan confessed to Jenkins, " That a Person was gone over to fetch a Priest that knew all the Plot." Now what reason was there, that the Person that went should be thus described? But whether this single Information of Sheridan may be a ground for all this, is

my Query.

Sir Leoline Jenkins. I have had little acquaintance or commerce with Sheridan, but about the State of Ireland. He gave me this Information, without an Oath of it. It was necessary, being a Priest, and to come into England, and fuch a Description of him—I had a verbal Order from the Lords, and nothing final, but to bring him to examination. When this Norris came on shore, the Lords fent to the Mayor of Dover to commit him, and the Messenger to take him into custody. The first Order is verbal; "To stop Norris, till their Lordships pleasure be known." When that was done, there were two other Orders from the Council to the Mayor of Dover, to stop and deliver him to a Messenger. The verbal Order from the Council was before Mr Cooke did write the Letter to the Mayor, &c. Sheridan did not declare this man a Witness to me, upon the Faith of a Christian. I humbly take leave to aver, that that is a verbal Order in a Committee of Council, where it is not entered into the Minutes of the Council. I may err in Forms, being but newly come into my Office. Mr

Mr Harbord. I think this is not fo flight a matter * as that Fenkins should not withdraw. I believe it will appear otherwise upon the Debate.

Sir Leoline Jenkins withdrew.

Colonel Titus. If Debates had not been free, if Clarges had faid out of the House what he has faid in, he would deferve as great a punishment as the Secretary. He looks upon this as no fault, unless through malice. Suppose the King's Farrier should give the King physic, if he were fick, would that be no crime? "In cases of neceffity to commit illegal actions"—These are strange affertions for what has been done, or what may be done. Now to the matter itself. I am forry for Jenkins, but not much furprized. The thing is all of a piece, for some great Persons are concerned in it, that we should not come to any light of the Plot. Here is a Description; and the Priest who would discover made away. What way is there for them, but to suppress the Plot? Suppose a Hue and Cry should go out for Thieves, and I that am Justice will grant no Warrant for the Thieves: Will the Justice get the Thieves, with describing the Witneffes against them, to have them knocked on the head? How many thousand Priests are there! But when one comes over to make Discovery, then all the pains in the world are taken to fecure him! But suppose there be no malignity; -- yet, though he will take the Oaths, still he must be clapped up. Let Gentlemen make it their own case. I see not who is to blame, but he that signs the Warrant; nothing appears to you else; therefore put a brand upon it, by voting it "illegal and arbitrary, and tending to stifle the Evidence of the Plot."

Mr Harbord.] Jenkins was unhappy at making the Peace at Nimeguen, when the Parliament was for an actual War, that very Day the Prince of Orange was fighting for his own. The King's Revenue was never greater, which they have pawned to the Bankers, and yet they starve the King's Family, and pay no money to Servants,

[&]quot; Upon Meres's faying, " It was a flight matter."

and all this to keep off the Parliament. A parcel of men there is, who abuse the King, and still you must be tender of them, and these men must still be about the King. Pray put the Question.

Mr Hyde.] I understand not how "pawning the King's Revenue to the Bankers, and the Prince of Orange," come

into this Debate.

Refolved, That the late Imprisonment of Peter Norris, at Dover, was illegal; and that the Proceedings of Sir Leoline Jenkins, Knight, one of the Principal Secretaries of State, by describing the Person of the said Norris, and directing such his Imprisonment, was illegal, and arbitrary, and an obstruction to the Evidence for the Discovery of the horrid Popish Plot.

(See the Case of Peter Norris at large, printed by Order of

the House.)

[The farther confideration of this Debate was adjourned till Monday.]

Saturday, December 11.

Mr Treby reports the matter touching the Election for the

Borough of Agmondesham, in the County of Bucks.

[Refolved, in the Committee, That, in the Borough of Agmondesham, those Inhabitants only who pay Scot and Lot, have right to give Voices at the Election of Burgesles to serve in Parliament for the said Borough.] Obj. Burgage-Houses have Votes sui juris. "Paying Scot and Lot" are old Saxon antiquated Customs.

[Debate.]

Sir William Jones.] This Question, of voiding the Election, ought not to be confined to Buckinghamshire. Persons ought not to have Voices, unless they contribute to the public Charge. England was never under so happy a change as not to pay Tenths and Fisteenths, Taxes and Subsidies. By the Argument I have heard, we shall have Alms-men to have Voices in Elections. Whoever has the missfortune to be a Pauper, must bear that, and if he be not able to pay towards the Charge of the Government, he ought not to have liberty of Choice of Representatives. You will have beggars, at this rate, come to have Voices, and what Choice they will make, you may know. In an Election of Knights

of the Shire, an Elector must not only have a Freehold, but it must be of the value of forty shillings a year, which, when that Law was made, was as much as twenty pounds a year is now. This Borough was revived forty years ago, and that will make no Prescription, though possibly used by an Indulgence; in this case there is no Prescription. They bear no part of the burden of the Government, and are most liable to temptation of bribery for their Voices. I would have substantial men chuse Representatives; therefore I would

not agree with the Committee.

Mr Powle.] By common Right, all ought to have Voices of Election in Boroughs, fui juris. He that is worth twenty shillings is as much rated, according to his proportion, as he that is worth twenty thousand pounds, though possibly not taxed above a fourth, or a half farthing, not worth gathering; but still he bears his proportion. It is not what the man pays, for he may bear it personally, though not in his purse. Custom cannot take place in this case, here. This Borough is not by Prescription, which is "out of man's memory," but revived forty years ago. Such as are not actually rated, if they are rateable, ought to have Votes.

[The House agreed with the Committee, 191 to 83, and the Election of Sir William Drake and Mr Algernson Sidney was

declared void.]

[Dr Day was ordered to be discharged out of Custody.]

Monday, December 13.

Sir William Jones, after baving spoken of the continuation of the Plot, said, It is worthy your consideration, that the Committee for the Tryals of the Lords look into their Papers, to see what Evidence they have against the rest of the Lords; if they have not two, that we may punish them by Imprisonment or Banishment, that the Nation may be secured. For that little time we are to sit (which I know not how long it will be) let us be like the man in the Gospel, that, when the bour comes, we may be found so doing. It is most profita-

ble to do things most necessary, and I would have no-

thing else to intervene.

Mr Hampden.] I am impatient that we have done no more in this great work, moved by the learned Gentleman. It is fit for you to maim Popery, that it tread not on your heels. At prefent, it feems, we are in a Dead Sea. The Kingdom expects it from you, and the Nation; nay the Lords in the Tower, to be kept still in prison, and nothing proved against them. These things are fit for your confideration. You will know the danger of the Papists, when you are up. Thus far, therefore, I shall move you; and appoint your Committee to look over your Evidence against all persons concerned in the Plot—But yet there is fuch Evidence against the Lords in the Tower, though not sufficient to satisfy the Judicial Authority of Parliament, yet there may be such as may be fit only for the Legislative, and many others who have less proof against them may employ the Legislative Power. In the mean time, I move that the Committee may be appointed to pick out the names of them, whom they have the greatest Evidence against; and report them to you.

Sir John Hotham. I like well these Motions. Jones moved a great thing, like himself, but you have not the Muster-roll of the Papists great enough before you. I like well that the Knights of the Shire bring in the names of all Recufants convict in their Counties; but I think there is not a Papist of Quality in England but is guilty of cutting all your throats: If I were to die, I think fo. There are feveral other points; but we are not one bit fafer than when we came hither first. As Foab faid to David, Let us do like men, and leave the success to God. We do not only labour under Popery, but desperate arbitrary Power. By that Pensioning Parliament I was afraid every day that the Nation would have been given away. He that brought us to this, will not leave We shall never be undone but by them. Laws which that Parliament made (Gentlemen then did fee VOL. VIII.

light at a little hole, I will not particularize them) may ruin us. Therefore I move this, "That you will be pleased to take into consideration Arbitrary Power;" how far it has been suffained, even by those Laws. I desire that a Committee of the whole House may consider these things in general.

Sir Trevor Williams.] I do not so much fear the Papists, as Protestants. One has so many Counties under his command (Marquess of Worcester.) A man, so rotten in his Principles, to have such a Command! You may have

all your throats cut.

Sir Nicholas Carew.] Every one is ripping up the dangers we lie under. I do not think we shall knock all our enemies down at once. You are moved for the Committee, &c. which may examine what Protestants have had a hand in the Plot, as well as Papists. He that destroys me, I will destroy him if I can. I would have this matter of Sheridan farther enquired into. I close now with the first Motion, "To proceed upon those we have

Evidence against."

Colonel Titus.] We have fat now feveral days fince the Tryal, and these long Discourses of our Dangers put me in mind, that, in the Long Parliament, when we were proceeding upon an actual War against France, and gave Money for an Army; when we were bufy in this matter, there came a Message from the Lords, "That they had Matters of great Importance to communicate to us;" which was, "That the Roof of the House was falling on our heads." Now the Roof is falling on our heads by the Plot, is there one step made forward in it, or any prospect? One would not think France was half so valiant, and that our Navy was out at fea-But we have no Ships nor Stores, no fecurity at home or abroad: Like the Philosopher contemplating the Stars, and falling into a Ditch. The most considerable Papists are in this Town. The first thing King James and King Charles did, was to banish them out of Town-And to fee the fecurity we are in now, in the midst

midst of our dangers, is strange. I will tell you a story. A Gentleman came to me one morning, well-habited, but his business was to beg. I expected a bigger errand from him. I told him, "I fee you are in the garb of a Soldier, let your Religion be what it will; if you are a Papist, you may find employment under the King of France; if a Protestant, under the Prince of Orange. It is a fad thing fuch a man should go a begging!" He told me, "He should be glad to do it, but that himself and others were kept here with a mean Pension, sometimes paid them, and fometimes not, but they were told, that ere long there would be fomething for them to do." I join in the Motions that have been made, "To order the Committee to give you an account, what Perfons they have Evidence against, what they are accused for, and what Proofs against them; and to take care to secure yourselves the best way you can, &c." and resolve, "That the Committee of the whole House consider the State of the Nation;" else we may be all loft. At first, things may be eafily cured, though not fo eafily perceived. When things have got strength, they are more easily feen, but not fo eafily cured-And, "That the Committee may have power to bring in a Bill of Banishment of the Papists ten miles from London, and from the Court."

Sir Francis Winnington.] This House has been industrious in finding out and suppressing the Plot; and if others had been as willing as we, the Plot had not thus proceeded; but our business is not to die like fools. To say, that, because there may be but one single Witness, and the Papists pass with impunity, is as much as to say, "Let them cut your throats." This is a national Plot, and must have national Proceedings, and not to pick out one man only, as we have done Lord Stafford, to proceed against. It is not the intention of the Nation to tell the Lords what Evidence you have against them. As to that moved, of banishing the Papists twenty miles from London, it is as little as can be; it is dangerous to make in

K 2

Parlia-

Parliament any exclusive Vote. I observe, that not one step has been made against the Papists since we came hither, nor do the new Justices suppress Popery more than before: No great Ministers have been removed, though Protestants yet are popishly affected—There are those that support the Papists: I would have those affected. I would not make any exclusive Vote, but, "That this House will, de die in diem, consider how the sense of the Nation is against Popery." When this is done, instruct your Committee how to give you an account of the Evidence. But this Grand Committee is to consider the State of the Kingdom, and when it is once ten of the clock, to let fall all other business, and put your finger upon the right point.

Sir William Jones.] I would have my Motion well understood. I would not have the Committee report the Evidence against any one, that they have two Statute Witnesses, but those that have not two against them, to report their names and cases. I would not excuse Sheridan. I would resume this matter still at ten of the clock, let

other business be what it will.

Refolved, Nemine contradicente, That this House will, on Wednesday morning next, at ten of the clock, resolve itself into a Grand Committee, to consider of Ways and Means to secure the Kingdom against Popery and Arbitrary Power.

Mr Trenchard.] Consider how restless the spirit of Popery has been ever since the Reformation. This Plot was so near the execution, and the Papists are still so insolent, that you must not only suppress them, but extirpate them,

or they will extirpate us.

Sir William Jones.] That we may lose no time, I will put you in mind of the Statute 3 James, by which the Papists were not to resort to this City. That Act is wonderfully deficient, for it is only for Papists convicted. The Papists shelter themselves here, and keeping them from hence will be one step to your security. Therefore pray order a Bill, in which you will banish all manner of Papists from this Town, and some from the Kingdom.

Sir

Sir Francis Russel.] That will do no good; you will fend them out of London into the Country, to cut our throats. Let them all have six months time to sell their

Estates, and be gone.

Mr Hampden.] Do not think, by such a Bill as this, to preclude yourselves from doing something farther. The Apprentices Plot was not so slight a thing as not to take effect under pretence of Tumult. Here is your danger; numbers of Papists about this Town. They that bring in a Bill, must leave Blanks for distance of Place. This is for present security. I would not grasp at too much at a time. By these steps, you go through your work. Banish them first this Town.

Mr Leveson Gower.] I would have the Bill of that Extent as to banish them England; for all of them are in the

Plot.

Sir Thomas Lee.] It is far from me to think that this Bill will be a plenary fecurity. This great Town is a receptacle of people that may get into Arms with multitudes. This was the Place where the Papists intended to kill the King. I do not doubt but you will fend the greatest away, that by their fortunes may support Popery; the little people cannot shift for themselves beyond sea, and we shall want their mouths: That may therefore be left to consideration.

Sir Robert Clayton.] I think, your entrance into this matter is well moved. We see nothing else but disorder and danger about now. I would not have one Bill only; the sore will be too big for the plaister: There are multitudes of buildings in this Town, inhabited by unknown unacountable persons, in houses with crucifixes upon them; they may throw multitudes into the City. Give them the plunder of the Town, and those rascally fort of people may be headed by any body: They may help Protestants as well as Papists; those that have the first occasion for them. Therefore I would secure London, and let this be one step to our common security, "That all Papists be banished twenty miles from London."

K 3

Colonel

Colonel Titus.] I would not only have an objection answered, but remedied. "Drive the disease, if you can, from the vital parts," is the first thing the Phyfician does. If the Papists go with their Arms into the Country, the Kingdom may be in danger. fore I would have a Clause for disarming the Papists, and for effectual difarming them. The danger may justify your Proceedings, if it be made Felony for a Papift to ride armed.

Sir Christopher Musgrave. I think it well moved, and I would have Jones and Hampden bring in a Bill to banish them twenty miles from London, the lines of communication. Preserve this City, and a great part of your fecurity is gained. But as we cannot do this business all at once, so you have made a good step in what you have done, and, as it has been moved, " if Papists ride armed, to make it Felony." If you allow them to ride armed, they may eafily repair hither again. I would not have the Bill of Banishment so extensive as to all the Papists in the Country; you will extend it not to all, but the most eminent, not those of inferior rank. For the present, I would have the Banishment of them extend to this Town, and Felony for any of them to ride armed.

Serjeant Maynard. I If they will not discover their Arms, and deliver them up to the Officer appointed

to receive them, I would have that to be Felony.

Colonel Birch. I fit uneasy whilst you are talking of these ways, as I did to-day, when you spent your time about the Turkey Company *. Now you are going to take away the General, there is no danger of an Army. I have longed to fee what kind of shed we shall have to keep us dry. I am never for encouraging a fort of people whom you cannot suppress. But when I with dread confider, that, by the Act of Militia, " No man must resist, or take up Arms against one commissioned by the King,"

^{*} There had been a Debate on a Bill for Exportation of Cloth, and other Woollen Manufactures, into Turkey.

you must think of something else than has been proposed. We do not know how soon somebody else may be King. I speak this the rather, that Gentlemen may by Wednesday summon up their thoughts, that when we see our safety rational, we may rely upon it. By all that you do, without some such cure, you do but increase our fears.

Sir Henry Capel.] We had better have half a loaf, than no bread: The whole loaf is the Bill that is lost in the Lords House. This House, I hope, will not sit down without thoughts of that Bill. Still the first Motion to-day was in pursuance of the Plot. This Motion now for a Bill is a present remedy against our danger. But if you proceed to consider the present State of the Nation on Wednesday, I hope that will bring in all our

dangers.

Sir William Jones. I desire to know whether I deferve the reflection that Capel has made upon me, as if by this Bill, &c. we depart from other things? I have learned here, that if one would hinder a thing from passing, other things are alleged as necessary as that. But you will never do any thing, unless something have precedency. Proclamations have been against Papifts, in the late King's time and this, without effect. I think this Bill moved is not intended to be proceeded in, when all the rest are ready, but this is preferable for our present safety. This matter is of this nature, that we would be fecure here, whilft we are debating this great matter. But because that great thing is not done (the Bill of Exclusion) shall we not do those things that may ease the way to the greatest? Let us, therefore, go to this matter of banishing the Papists from London; though it be not the greatest matter, yet it is great.

Mr Hampden.] I am far from offering you any false security. If I deceive the House, I should not deceive myfelf. I take not this Bill for a remedy, but, sincerely, that this should lead you into farther remedy. Your danger is not only from Papists, but counterfeit Protest-

ants. When all is done, you are but insecure without that great Bill; and if ever you come to that, do you think there is any security out of this Town, if the Papifts ride with Arms? Other things will come on, but in the mean time do not let it be refented that these have been full remedies. In that I should mislead you, who must partake of the danger.

Colonel Birch. I did not fay, indeed, "that this was not a remedy against Popery." Very rarely men go to crop a tree, when they intend to cut it down. I intended not

to reflect.

Ordered, That Leave be given to bring in a Bill for banishing all Papists, and suspected Papists, from the Cities of London and Westminster, and twenty miles of the same, and for disarming of all Papifts; with a Claufe of Pains and Penalties against all such Papiffs as shall ride, go, or be armed: And a Committee was appointed accordingly.]

Tuesday, December 14.

Sir William Roberts reports, from the Committee, the matter relating to Sir Robert Peyton*.

Sir Robert Peyton.] I am a little surprized to hear this Report. I did not hear this language at the Committee. Gadbury moved my meeting Lord Peterborough at his

* While Dangerfield was yet the view between himself and Sir Ro-Pensioner of Lady Powis, Mrs Cellier, and the Court, and was laying in his ingredients for the Meal-Tub discovery, Sir Robert Peyton, who, by the means of one Gadbury, a pretender to Astrology, was fallen also into an intimacy with Mrs Cellier, dropped some intimations to these confidants of his, "That if he might be forgiven what was pasted, he would quit his Party, and go over to the Court;" but withall fignified his fears," That the Duke was of an unrelenting disposition, and consequently would not accept of his repentance." Mrs Cellier immediately posted with this discovery to Lord Peterborough, who defired her to bring about an inter-

bert. This she gladly undertook. Gadbury's House was the place asfigned; and when they met, his Lordship, on the one hand, undertook for the Duke; and Sir Robert, after fome complaints of hard ufage, declared he would come into the King's service to all purposes. His Royal Highness soon after confirmed, in person, all that Lord Peterborough had thought fit to fay in his behalf; and Sir Robert devoted himself, body and soul, to his service. Thus much Lord Peterborough himself acknowleged in his Examinations before the Council, about the Meal-Tub affair, in November. Ralib.

House to me, not I to him. I did say to the Duke, "That I was for the Bill of Exclusion, not for any pique against him, but for the good of the Nation." I never faw Mrs Cellier, nor heard of her, till after I was with my Lord of Peterborough, who repeated the actions that the Duke took ill from me. Mrs Cellier asked for Gadbury, and came into the Tavern where we were, where she discoursed of Chancery-Suits. But of "twenty thousand men *" that I could command, I know nothing of it. What passed was a mixed Discourse, after having drank a great deal of wine. Gadbury, in his examination, did accuse Cellier, and Lord Castlemaine +, and at his Tryal did renounce all. You may fee, by this, what manner of man Gadbury is; a man of uncertain Reputation, and I hope you will give no credit to him. In waiting upon the Duke, I aimed at no more than a personal reconciliation to the Duke; who said, "He was forry I should have any marks of the King's displeasure, and that he would put me in Commission again;" which, I faid, "I would not be, unless those Gentlemen came in again, who were turned out with me." The Duke pulled out of his pocket the names of Justices, but, upon enquiry, he found them not fit—"He must be satisfied of their inclination to the King's Service—They were under another Character at Court"-The Duke faid farther to me, "You have appeared against the King and me, the last Parliament, and was of the Green Ribbon Club 1."

^{*} Gadbury deposed, That Sir Ro- kill the King and re-establish Pope-bert had told him, "That in clo- ry, and acquitted. fing with the Court he should certainly part with a very great inter-est; an interest, which had twice compassed his Election of Member of Parliament, which could put him at the head of twenty thoufand men in two days time, and which could raise fixty thousand men in a week or eight days."

⁺ Husband to the famous Dutchess of Cleveland, and afterwards fent by King James II. Ambassador to Rome. He was tryed (this year) for his share of the Grand Plot to

[†] This was a grand political Club of the Exclusionists, or Anticourtiers, confifting of two hundred persons, and called "The Green Ribbon Club," because, on extraordinary occasions, they wore Green Ribbons in their hats. It was also called " The King's-Head Club," from its being kept at the King's-Head Tavern in Fleet-fireet. Sir Robert Peyton's name was the fecond in the Lift. Lord Howard of Escrick was the first.

I parted with the Duke, and he was not well pleafed with me, that I would not engage in some things, but would follow my Conscience; and I never saw the Duke since. There was Treason sworn against me upon Forgery, and I was committed to the Tower, and I might have been immediately tried upon it. I affirm, upon my Honour, I did not know how foon times might turn, and I lie in Tail, and fo I made a personal reconciliation to the Duke, and I did only fee him; in which, if I have offended. I humbly beg pardon of the House, and submit myfelf to your determination. I have always valued the opinion of the House, and afferted the Protestant Religion these twenty years. I have found out fifty thousand Pounds a year upon conviction of Papifts Estates, I do declare, that whatever my misfortune is, I will affert the Protestant Religion, and will lose my Life and Fortune for it. I submit myself to this Honourable House in the whole affair.

Sir Thomas Lee.] Here is one passage an impossibility, what Gadbury has sworn. If any thing be reported that Gadbury said not, the Committee is to blame. Gadbury had several meetings with Mrs Cellier and Sir Robert Peytor, after the Duke went away. Peyton mistakes in matter of time. The Duke went to Brussels first, and then came away alone. Peyton tells you how he was prosecuted, and Witnesses suborned; that is a sign he had made no good and thorough bargain with the Duke.

Sir Robert Peyton.] When I was close Prisoner in the Tower, I was kept there very strict. Sometimes the Jailor called me to go; and if I asked "where?" he would say, "It is no matter whither." Then I was brought into the Lieutenant's lodgings, where Privy-Counsellors examined me, and threatened me, if I would not discover about the Presbyterian Plot; and they got those fellows to swear against me. But I would lose my life a thousand times rather than discover any thing. I did not know of a Presbyterian Plot against the King. He withdrew.

Sir Thomas Lee.] This is a matter every man in the House is concerned in; if Defence from this Gentleman be not expected as well as Accusation, it is very strange if you should not do your Member Right; which you will not do, unless you commit his Defence as well as his Accusation.

Sir Thomas Player. It is my misfortune, that I must declare against one I have been intimate with, and will venture to be fo when I believe the person true to his King and Country, and the Protestant Religion. I will be contented to let the matter go as Peyton fays, "That Gadbury courted him, and not he Gadbury." Whether I will be a knave by inclination, or follicitation of another, furely that can be no extenuation of his crime. It may be, the House will do a great service to the Kingdom of England, to declare your refentment upon them that court fo curfed an interest as that of the Duke of York. He has confessed that he has been with Gadbury, who is a predicting fellow, and pretends to prophecy. If you had all the ftory, you will find he made Peyton afraid of losing his Estate, and persuaded him, that the Duke, being the greatest man in England, he might make himself by his favour. The next is, Peyton's Correspondence with Mrs Cellier, which he does not deny, only in point of time, and that feveral times; but his best pretence for that is, "That Cellier was a good bawd, and, may be, could procure." But lay the bawd aside, and what must he converse with her for, but for promoting the Duke's defign to ruin the Kingdom? And must be introduced by Lord Peterborough. Not one person Peyton corresponds with that you can make a good construction of. And I hope, in time, you will think of Lord Peterborough. Had I a mind to reconcile myself to the Duke, all the World should see that my going to him was out of an honest interest; but to go by night, like a rogue, makes it a work of darkness, not a compliment only to the Duke. But I know the Duke fo well, that the Popish defigns are not to converse with people in a compliment:

He designs greater matters. I think him not fit to sit in this House, that holds Correspondence with the Duke. Pray clear the House of him, and of others too, if you find they have such Correspondence with the Duke. It was said by a Gentleman, "Probably, Gadbury might tell the story, that Peyton was come over to the Duke's interest, and probably Player was coming too;" but if you prove any subsequent act, as you have done upon Peyton, throw me out of the House too.

Mr Harbord.] This matter, relating to Player's coming over to the Duke, is introduced to divert the Debate. It is a strange liberty the Gentleman took in naming Player, who, we all know, some years past has been under the persecution of the Duke. We know him to be a man of Courage and Fidelity, and let nothing remain upon

Player. He is a worthy Gentleman.

Sir Nicholas Carew.] Player is a Gentleman fo well known, that he needs no vindication. I find Peyton faid nothing to clear himself at all. He says nothing of his going to the Duke, or meeting Lord Peterborough. That a Member of Parliament should go in the night-time to the Duke! He has told you what recompence he had for "his twenty thousand men." For what? to introduce a Common-wealth, if the King came to an untimely end. Here are good Principles for a Common-wealth, and Popery. I was afraid to come into his company, he talked fo, and never was laid hold of, that he was a fpy of the Court. He went down into Hertfordshire before the Election, and traduced Colonel Titus and Sir Henry Cæfar, "That they voted for the Duke," and took a box on the ear in a Coffee-house, and did not turn again. All that was by contrivance. I must speak my mind: I would have all rotten Members destroyed. This will ruin the Nation; therefore I move that he may be expelled.

Serjeant Maynard.] In the last Parliament, no man spoke so much contrary to what he is now accused of; he scared me so much, that I was afraid to come near him. So much for the Public in the House, no man was beyond

him.

him. Now he is coming to Judgment, be he what he will. I know not how he can answer his tricking with Cellier and Gadbury, and his going to the Duke at unseafonable times. A man is a good or a bad man, according to his Conscience. He cannot be worse than Gadbury, who swore against Cellier in his examination, but when she came to be indicted, he did as Reading would have done with Bedlow, which he did wickedly and abominably deny—If only upon Gadbury's Testimony, he did so knave himself, that he deserves an Indictment of Perjury. If your Member be of that Condition he appears to be by Gadbury's Information, who might put this Woman to swear his access to the Duke, I am not satisfied. I know not how to give my Vote to acquit him; but if upon Gadbury's Information only, I think he is

not guilty.

Mr Harbord.] Coleman did confess, " That he had twenty-five hundred Pounds from the French Ambassador to distribute amongst Members of Parliament," and your Committee prudently did not take any names from him, it being in his power to afperfe whom he pleafed, possibly fome Gentleman against the French and Popish Interest. By one thing, I cannot but think Peyton guilty; his going fo often to Cellier. I must think he had Commerce; but had he gone to the Duke, by means of an honest Gentleman not intrigued in his Interest, the Duke being a great Person, he might go; but why by the means of such Devils as Cellier, and Gadbury, and another Honourable Person whom I will not name? Why should a Gentleman that values his Reputation be fo introduced into this habitude? He must, it is impossible but he must, be tainted. When Men of Honour introduce him, it is otherwise. But to come into the Country, into Hertfordshire, and at an Election to traduce Gentlemen by aspersions! He is not only unfit to fit here, but unfit for the Society of any Gentleman, and I move, "That you will turn him out of the House."

Mr Papillon. I have no acquaintance with Peyton. I have as ill thoughts of fuch actions he is charged with, as any man; but I must crave pardon if I am not of the opinion of some Gentlemen. It may be the concern of any Gentleman here. You are going to expell him the House. What was his Crime? He was twice with the Duke. You are told what kind of perfon Gadbury is. I cannot believe what Gadbury fays. I take it, that he denies all things but his being with the Duke. If it were our case, any of us might have gone to the Duke. I am afraid this Gentleman had too great an inclination to make fome compliance with the Duke. Members in the Long Parliament, that have had Elections depending, it may be, a month or fix weeks, when the contest has been over, and the matter at an end, or they thought they could get any advantage by it, have fpoken a different language in the House to what they had done before. But Peyton would not come up to do the Duke's business, and then he was profecuted with all the malice that could be, "That he was in the Presbyterian Plot with Cellier and Gadbury." And this is the bottom of it. I think he was inclinable to some compliance. But I cannot think this a crime for which he ought to be expelled the House.

Mr Vernon. By what appears, he has been tampering, and it is all one as if he had come to Terms. Pray put

the Question for expelling him the House.

Mr Love.] I attended the Committee that examined this matter. I did expostulate about the Report, of which I took notes. I have not an unworthy thought of the Reporter; but, I think, in somethings he did mistake. But let it stand as it is. One time Gadbury said, "He went to Peyton first;" another time, " That Peyton came to him first." The Terms that he was to come over upon. were, to be Governor of Portsmouth, or Lieutenant of the Tower. "He told him he should lose a great deal of interest he had already, if he was not requited." This is the fum of his Charge, and he would have a Gentleman

put into the Commission of the Peace again. Danger-field has no acquaintance with Peyton—And so reports the rest of the Evidence.

The Speaker.] Some of this agrees with the Report,

and there is no contradiction.

Colonel Mildmay.] Here is a severe and hard Report made upon Peyton. Here have been great labours to out him of his Commission, and practising with Witnesses. He that gives the Evidence of "the twenty thousand men to set up the Duke of Monmouth," never saw Peyton; and whether Gadbury came to Peyton, or Peyton to Gadbury, is not so slight a thing as not to be remarked. Gadbury was asked it three times, and he answered, "I think, I did imagine it to be Peyton." This moves me to think, that Gadbury was an ill instrument of men that would be better, to ensnare Peyton, or gain him in to the Duke—And so be proceeded to give an account of Peyton's life, and his deportment the last Parliament.

Colonel Birch.] I desire, Gentlemen will consider well what they do, that nothing may be done at one time, that may not ferve a turn at another. I would have upon your Books the cause of expelling Peyton the House. This, Gentlemen, has not been proved yet. I never heard, in my life, fuch a Report as this—I will not arraign it: I was not at the Committee; but I have heard that Peyton faid to the Duke, "That he would not come into the Commission of Peace again, unless fuch persons came in"-I would do as I would be done by, in this matter. I would have every circumftance reported for him, as well as against him. If I move according to Order of Parliament, I must move " to re-commit the Report." I have much to fay, if I come to judge Peyton, both ways; therefore pray re-commit it.

Colonel Titus.] It is a great Rule "to do as I would be done by," and so I would do in this matter truly. Whenever I speak vehemently against Popery, and am zealous against the Duke, and after that sneak to a

Midwife *, and a Fortune-teller +, to bring me to the Duke, then throw me out of the House. I wonder at the good-nature of Birch, who is always against Great Men accused. But as to this man, I value his good-nature. Gentlemen to be great Patriots here, and then to truckle, and go to the Court, to get Places! Whenever any man does this, and has intimacies like these, throw him out of the House. What was his bufiness with the Duke? Could what he faid give satisfaction to the Duke for all his vehemence against him? And to do this by night! This was for no finister end, fure! It is, in effect, Sir Robert Peyton to be heard against Sir Robert Peyton, to re-commit the Report. After Peyton had been with the Duke, and had not received any great satisfaction, he comes to a Gentleman, and calls him by his name, and tells him, "It is now in my power to do you a kindness, that I have long meditated." He tells him, "You do not know what I am doing." The Gentleman comes to a Member, and tells him, "Are you acquainted with Peyton? Have a care of him." He gave feveral warnings of it, and told the person that warned me. I desire that you would expell him the House, and let the Country chuse you a better Member, and a worse if they can.

Colonel Birch.] I spoke only to recommitting the Report. But, at this rate, all Debate will cease. Titus was pleased to say, "That he wonders at my good-nature; when Great Men are accused, I am always against them." I know what it is to say at all, and bring to pass nothing. One great Person was accused upon Town-talk. I appeal to you else. As for the other two great Persons, I spoke my mind, and shall speak more, when any thing comes before you, and appears not sufficient on your Books. If this matter be recommitted, I shall say nothing now; if not, I shall

fay more.

Sir Thomas Armstrong.] What Titus has told you, I heard from Captain Layton, and I told it to Titus.

Mr Vernon.] I was here in Town all this Winter, and met with many Gentlemen (and amongst the rest Mr Umfreville,) who did in Discourse say, "That Sir Robert Peyton was put again into the Commission of the Peace by his interest with the Duke," and bad me have a care of him.

Sir Francis Winnington.] I am forry that heats should arise amongst ourselves, when against Popery and Arbitrary Government we are all of a mind; but when we come upon particular persons, then we differ. Sir Robert Peyton's cause, I have known him long by face, but have not been much in his company. feemed, the last Parliament, to be much against Popery, and against the Duke's Succession; and before he came into Parliament, he afferted as much, in his way, against Popery and Arbitrary Government as any man. When a man is in extraordinary fuperlative extremes, there is justly a suspicion of him. I hope, ere long, to see who are Papists, and who are Protestants, and who are affected to Popery, and who to the Protestant Religion. The Question is now, that something may appear upon your Books for the Honour of the House, in your Judgment upon this man. That is most for the Honour of the House wherein you do your duty; and to put a mark upon men, who fwerve from the Protestant Interest. It is no offence to have been in the Duke's company; but was Peyton ever in his life before in the Duke's company? And it was at a time when the Parliament was diffolved: He faw that, and the advance of Popery, and how the Protestant Religion was mauled in the Courts of Justice: When Peyton saw this, his courage began to shake. I hope, this excellent body of men will despise interest, when the Protestant Religion and their Country' are concerned. To re-commit the Report is to no purpose, unless you would enquire into all the course of his life. Our Law says, "A Jury is bound to find the Person guilty, after the Confession of Vol. VIII.

the party, else they are liable to an Attaint." Peyton did confess, "That Cellier, Gadbury, and Lord Peterborough were instrumental to bring him to the Duke by night;" and Peyton faid, "He had not come into the Commission of the Peace, but to have four more Gentlemen in." This is an unanswerable proof of an Agitation, and, it may be, it was to corrupt those four Gentlemen he brought in. But the Question is, Whether there was not an Agitation with the Duke? The matter urged is an immaterial point, not fit to re-commit it upon; else he may spend a year in the House to do mischief. He did confess such an Agitation with the Duke. If the World shall see such a man sit here confulting and having Agitation with fuch men, without doors, they will think that, because Peyton has got a great interest with the Duke and my Lord of Peterborough, you are afraid to meddle with him. Peyton, as a private Gentleman, if they could not agree upon the first bargain, if the Parliament should be prorogued or disfolved, will go to his first Agitation. Let us have none here but true men, frout and brave; and pray, no more of Peyton.

Vote. It appearing to this House, by the Report made at the Bar, and by the Confession of Sir Robert Peyton, in his Place, That Sir Robert Peyton had secret negotiations with the Duke of York, by the means of the Earl of Peterborough, Mrs Cellier, and Mr Gadbury, at such time when they were turning the

Popish Plot upon the Protestants;

Ordered, That Sir Robert Peyton be expelled this House; [and that he be brought to the Bar, and do receive the Cenfure of the House, upon his knees, from the Speaker.

The Serjeant at Arms acquainting the House, That Sir Robert Peyton had absented himself, so that he could not be then

found;

Ordered, That the faid Sir Robert Peyton be taken into Cuftody of the Serjeant at Arms, and be brought to the Bar of the House.]

Wednesday, December 15.

[His Majesty spoke as follows, in the House of Peers, which was afterwards reported in substance by the Speaker:

" My Lords and Gentlemen,

"At the opening of this Parliament, I did acquaint you with the Alliances I had made with Spain and Holland, as the best measures that could be taken for the safety of England, and the repose of Christendom.

"But I told you withal, "That, if our Friendship became unsafe to trust to, it would not be wondered at if our Neighbours should begin to take new Resolutions, and perhaps such as might

be fatal to us."

"I must now tell you, that our Allies cannot but see how little has been done since this meeting, to encourage their dependence upon us: And I find by them, that, unless we can be so united at home, as to make our Alliance valuable to them, it will not be possible to hinder them from seeking some other refuge, and making such new Friendships as will not be consistent with our safety. Consider, that a neglect of this opportunity is never to be repaired.

"I did likewise lay the matter plainly before you, touching the State and Condition of *Tangier*: I must now tell you again, that, if that Place be thought worth the keeping, you must take such consideration of it, that it may be speedily supplied; it being impossible for me to preserve it at an Expence so far above my

power.

"I did promise you the sullest satisfaction your hearts could wish, for the security of the Protestant Religion, and to concur with you in any remedies, which might consist with preserving the Succession of the Crown in its due and legal course of Descent.

"I do again, with the same reservations, renew the same promises to you; and, being thus ready, on my part, to do all that can reasonably be expected from me, I should be glad to know from you, as soon as may be, how far I shall be assisted by you, and what it is you desire from me."]

[Debate.]

Sir William Jones.] Before you go off from this business, I would appoint some time for the consideration of the King's Speech. You have had reported in substance what the King spoke, and you expect a Copy. This

1 2

Day is appointed for a great business, by Order: Appoint Saturday for the consideration of his Majesty's Speech, or

what Day you please.

Mr Hampden.] I am well contented that you appoint a Day, but it was not anciently in Parliament that we should expect a Copy of the Speech, for we are all supposed to be there present, and if you, Mr Speaker, have mistaken in the Report of it, that may be rectified. This day will prepare you for the Debate of the King's Speech; will you be ready to consider it, till you have taken into consideration the State of the Kingdom? That having been considered, it will prepare you for an answer to the King.

Colonel Titus.] Though it is not the Custom here, to expect the King's Speech in writing, yet, when you have it in writing, I would have one Day set for the considera-

tion of it.

Colonel Birch.] If I did not mishear the Speech, there was new matter in it, of an extraordinary nature, in the last words. The King does say (with much expectation) what he desires, and [would know] what you desire from him. He tells us, "We have spent two months, and he has not heard from us *." I do agree to the soonest Day.

Sir Robert Peyton at the Bar upon his knees, to receive the Sentence of Expulsion, &c.

The Speaker.] Sir Robert Peyton, it is a long time that you have had reputation in the World, and that you have served as Knight of the Shire for the County of Middlesex. Two Parliaments, the last and this, your Country made a free Election of you; your Country had a great opinion of you; and now you are in that condition, that you have appeared to the World the man you really were not. You have made a show, and have acted a part against Popery and Arbitrary Power, yet really and inwardly you have sought your own advantage,

This does not appear in the printed Speech.

and not that of your Country. It is manifest, by the Report from the Committee, and your own Defence makes it clear. Many Gentlemen here, whose eyes are in their heads, their tongues and eyes have moved as well as yours. You have fat betwixt the Devil and the Witch, Mr Gadbury and Mrs Cellier. The dark ways you have taken show your ill defigns; your company and conductors show your errand. You are fallen from being an Angel to be a Devil. From the beginning, you fought your own interest. To set up a Commonwealth, you had "twenty thousand men" to make your interest the stronger. You were bustling, like the wind, in this House, and in Coffee-houses. Your Country chose you to this Place, not only for your interest, but for an example to other men, not with noise and thundering, but to behave yourfelf without vanity or oftentation-You are one of them that have played your own game and part; and that all men may take notice, you are a warning for all other Members, and I hope there are none fuch. It shows that this Parliament nauseates such Members as you are. You are no longer a part of this noble Body. How you will reconcile yourself to your Country, is another consideration. You are discharged this House, and the Custody of the Serjeant, paying your Fees *.

The King's Speech was read.

Mr Garroway.] I find in the Speech it is asked, "What assistance you will give the King?" Are you ready to say what it will require? You have had no Answer to your

Sir Robert took care to have the most offensive part of this Speech printed, under the following Title, "A Specimen of the Rhetoric, Candour, Gravity, and Ingenuity of William Williams, Speaker to the late House of Commons, at Westminster, in his Speech to Sir Robert Peyton, when he expelled him that House." See it in Sir John Reresby's Collection.

^{*}The Speaker performed his Office, of censuring Sir Robert Peyton, in such coarse terms, and thereby so highly exasperated him, that the Session was no sooner over, than he challenged him; but, instead of answering it, Mr Williams, with more propriety than gallantry, made his Complaint to the Privy-Council, and Sir Robert was, in consequence thereof, again committed to the Tower. Ralph.

Addresses. You have done what you could in the time you have sat, and the reserves are the same in the Speech, as they were before. You have sent up your Bill to the Lords, and they have rejected it. I would know whether we shall have any thing, or nothing, for our security? You cannot at once sum up what you would have. You know not yet either matter or form; if you will, go on with the Debate. I would have a real, and not a verbal satisfaction, that we may give our Country an account. Till then, we are not ready to consider of a Supply.

Colonel Birch.] I am very glad to hear that Speech read. My desire is, that all things may be done for your Honour, both within and without the House. The King tells you, "That two months have been spent already*."—For my part, I see no more safety, than when we first met. The King desires us to lay open what we will have; if we want nothing, then there is an end. I would show the King plainly and truly what you would have to satisfy God and your Country, and I move that

Sir Nicholas Carew.] If you appoint a Day, it may be that will not determine what you would have; but if the King ask you what you would have, and you make him no Answer—The burden of the Song is

the Bill we lost in the Lords House. This is not a Parliament to part with Money, without a good Bargain, and I believe you will do it first. Therefore I

move for Friday.

you will appoint a Day.

Col. Titus.] Two things the King's Speech confifts of, viz. "That you will give him affiftance," and "what you defire of him." If there be a difference betwixt Perfons, we usually, to know what will fatisfy, ask both sides. If I come and say, "I will make no Proposition," it is as much as to say "I will have nothing to do with you." We are not only to consider what will satisfy us, but those that sent us hither. Some say, we have an intention to alter the Government; and if we say nothing to the King,

^{*} See Note, p. 148.

will not that justify that Report? Our own Interest, Civility, and Duty oblige us to answer. For my part, I would give Money, and not be penny wise, and pound foolish. When there is occasion, I am free to do it. I hope it is out of the Power or Oratory of any man to persuade us not to give Money upon a good occasion. Pray put the Question for a Day.

Saturday was ordered.

Mr Sheridan defired to be admitted, having fomething to offer to the House.

The Speaker.] Mr Sheridan, you ought not to come

here, to offer any thing impertinent.

Mr Sheridan.] I shall say nothing, I hope, that will give offence, if you please to grant me liberty to say what I can, for my own vindication, of what I am charged with.

The Speaker.] You are not permitted to come hither to make a florid Speech; that will not avail you

at all.

Mr Sheridan.] It is not my intention. I am here represented as a Person of no Fortune, (and in that, as in all the rest, I am traduced) to be "a Papist," and "a second Coleman;" as ridiculous, as "that I am the Duke's Confessor." That I am thus traduced, is my missortune, not my crime. If it be vanity, the necessity will excuse me, if I give you a little History of myself.

The Speaker.] You are to give no History of yourself here, or Narrative of your Condition, but any thing of

moment you may communicate.

He was bid to withdraw.

Lord Annesley.] Sheridan sent to speak with me, and I had your leave to go to him, and I shall tell you what passed from him material. He believes that his Cousin can give you an account of the Parliament-man that wrote that Letter which was found in his Chamber. He told the Secretary of Norris—He immediately did require it of him—and now every one is shifting it off from himself.

Sir Nicholas Carew.] I would call him in, and hear him. We shall not be much catched with his Rhetoric. Let us hear what he will fay.

Lord Annesley.] He may make some little sourishes, but I believe will come to the business at last; he has been kept very close from pen, ink, and paper.

Mr Sheridan was called in again.

Mr Sheridan.] I was born a Gentleman, of Protestant Parents. My Father was of a good Family; my Mother was a Foster. At the beginning of the Rebellion, my Father faved several Protestants, and was a sufferer in the Rebellion, and fled. I was a younger Brother, and bred at the Temple, with a defign to make the Law my livelihood. I farmed the Excise. My Brother managed it for me, and paid the money; but being not pleased with the rest of my Partners, I sold my Interest for four thousand pounds, and with it I bought Leases in the County of Corke, and for some of it I had Interest here. This will appear on Record, and not one tittle I say but I can justify. I was never the Duke's nor the Dutchess's Salary-man, or Pensioner. I went into Flanders for my curiofity, and into Germany, and I returned with the Duke by accident. Every year, from seventeen, I have received the Sacrament; and in Flanders I received it of the Duke's Chap-Iain. I have disputed for the Protestant Religion with all Orders of Fryars, and a fefuit, more hot than the rest, said, "He could convert twenty Fanatics fooner than me." I challenge any man to charge me with an unjust action in my whole life. I know nothing of the Plot, and I abhor all fuch Defigns. As for my going abroad, it was nothing about the Plot—Colonel Mansel is mistaken—At that time, I speak it in the presence of God, I had but slender acquaintance with the Duke. put myself upon proof. No innocence can protect a man, if I know not the Authors and Contrivance, the whole chain, link by link. As for the story of the Secretary, &c. I knew nothing of it but from Dr Day, and not as Informer, but as Hearfay. It was not possible for me to obstruct Norris's Journey; I knew not of it; and as for Dowdall, (who is faid to be made away with) I knew him not, nor ever heard of him. I shall only say, as to that part of the Popish Plot, I could not probably nor possibly know it. I never heard of Norris before Dr Day spoke of him. If I have given Offence, I humbly beg Pardon: If I cannot have it, I am forry I am fo unhappy. I hope it was no Crime, if a Gentleman of my Birth was transported; if I made the Messenger to fetch Doctor Day. As for the Paper, I have always endeavoured to keep my Conscience void of offence towards God and Man. The Paper was not written by me, nor to me, but, from the circumstances

cumstances, I conjecture it from some Member of Parliament into the Country; for of Spanish* I understand not one word—If I knew the Author of it, I would tell you. The contents of that Paper I saw after; but the hand-writing, knowing it not, I threw into the fire—Seeing it was my Cousin's hand, I laid it on the drawer, without key or lock. I saw not my Cousin till next day, and was surprized, and said, "He must give the House an account"—I would say nothing abruptly, being surprized. As for Dr Day—I throw myself at the seet of the Justice of this august Assembly, where I shall be treated according to the Law of the Nation. If I am sound criminal, I shall answer it at what rate shall be your pleasure.

The Speaker.] Who do you take this Member of the House to be, that wrote this Letter? The House expects

you shall declare him.

Mr Sheridan.] My meaning is, That the expression, in the Letter, of the first two or three days spent in Ceremony at the opening of the Parliament, made me conjecture it came from a Member of Parliament: For myself, I did not lie one night out of London, from the time I returned from Newmarket. I am not acquainted with Members; I have been much abroad—In all places of my education, I have not learned one word of Spanish. I know not from whom the Letter may come, but it seems to be from some Member, a friend to the Court, and the Duke; but I know not either to or from whom the Letter came. He withdrew.

The Speaker left the Chair. Mr Powle took it. The House in a Grand Committee, [on the State of the Nation.]

Lord Cavendish.] The House has resolved itself into a Grand Committee, to consider the present State of the Nation, and the Grievances we lie under. I shall give my opinion and apprehensions, how weak soever they be, because I see a silence in the House. I confess, till Monday last, I was in a little dispute with myself whether we were in earnest. A week has been spent in Lord Stafford's Tryal, but several weeks before were spent upon things of not so great moment as we ought to have spent our time upon, as of Trade, and sending for people in Custody. At the beginning of the Parliament, a Bill was

brought

^{*} Alluding to the Spanish Proverb mentioned in the Letter. See p. 119.

brought in to exclude the Duke the Succession of the Crown, and had it gone on, it would have been a fatisfaction and fecurity to the Nation; but it miscarried in the Lords House; and no wonder it did so, when we confider that persons relied upon it to avoid the censure of this House. Those that have believed that none of these circumstances go out of England with the Duke, if they are not convinced of their error, I believe they will be. I would have national things go upon national bottoms, and not do good things by indirect ways, not to change persons, but things. As to that Bill we have loft, I had nothing to fay against it; it was reasonable and just-As if the King had not power to make fuch alterations for the fafety of the Nation-But he who fays, "That the King's power is more than Parliaments have given him," is little versed in English story. But now this Bill has miscarried. I remember a metaphor from a Gentleman, (Titus) "If a man be purfued for his life, it is a wonder any man would advise him to ride moderately *." I think, if we leave things as they are, we shall leave the Nation in a deplorable and unfettled condition, before we shall have opportunity to pass that Bill, of which my notions are a little indigested, but may be improved. My opinion is, "To consider of a Form of Association to adhere to a Protestant Heir declared by Parliament, and all that come not into it, to be incapable to bear any Office." And "That there may be Heads drawn up for a Bill to this purpose," is my humble Motion.

Mr Montagu.] I believe there is great expectation, both without and within doors, of this Day's Debate, which I wish may be for the satisfaction of every body. The Order of the Day is, "To consider how to prevent Popery and Arbitrary Power." Ever since the Parliament sat, we have been about that—Some time has been taken up in the Bill of excluding the Duke, and Tryal of a Popish Lord, and another thing, in punishing those who hindered the Subject from petitioning for Parliaments. These three are all I can recollect; none more against Popery

than the two first, nor for our Sasety and Property than the rest, &c. You were told, upon the Debate upon the Bill of excluding the Duke, "That though it did pass, there was a Loyal Party, that would stick to the Duke*." Now if there be not a Protestant Party, who will stick to themselves, and a Couragious Party, that will stick to that Bill, we must trust to God's Providence; and I hope some skilful Persons will bring about this Bill, if not, something else, to secure us against Popery and Arbitrary Power.

Mr Harbord. I suppose the wisdom of this Committee will do fomething upon the occasion of our fears of Popery and Arbitrary Power; but which you will go upon first, I am indifferent, I leave it to your wisdom; but cure Popery, and you may eafily prevent the other. Lord Cavendish's Motion, I confess, I am fond of, that we may by Law defend ourselves against Popery, and not only that, but any thing of the like effect; but I had rather have had the Bill; but fince it has had that fate to be thrown out in the Lords House, and we cannot compass it again without the King, by a Prorogation of the Parliament, let us make but one step; return the trust betwixt the King and us, and that Bill may be had. It is not fo necessary for us to give the King Money, as friendship and kindness; there are such that labour to alienate the King from us, that if you give Money, it will have that fate that our fafety shall be no more than before, though ever fo well employed. No malefactors, without the King's help, can come to Justice—A Bill of Affociation will take up some time. But I will propose fomething that I hope may be of effect. I derive not my fears from the Prayers of Monks and Fryars, but from their Swords. A Gentleman told me, "That there are a fort of Papists of courage that meet in London in numbers," and we labour under the Plot, going on as fast as Therefore I propose this, that, fince there are two or three hundred of the most eminent Catholics that keep Correspondence in carrying on their designs throughour the Kingdom, let the Knights of the Shire bring in the names of the principal Papists, and call to their Assistance the Members for London and Westminster, and in a day or two's time, such as are best known to be Papists, let their names be brought to the Table, and a Bill be brought in, that those persons be banished the Kingdom. They are not Subjects, nor can be, to the King. That Oath of Secrecy (you have seen) tells you that we cannot be safe if they be here; but pick out one, two, or three hundred of the most considerable men to be banished by Law, and if they come in again to the Kingdom, let them come as Traytors. They are freer than we, they bear no Offices, nor have any burdens. I move, "That they may be banished."

Sir William Hickman.] I would look forward to Lord Cavendish's Motion, which affects me, that, though the Bill be gone, you may get some steps up hill. You may immediately bring in a Bill for banishing some Papists (as has been moved) and then the other Bill of Association, as the best means to defend ourselves from

the Papists designs.

Sir Nicholas Carew.] You have had many Motions, but I do not fee how they will obtain your end. As long as the Papists hope, or have a prospect, that the Duke may succeed the King, the Protestant Religion, the Lives and Properties of the People, will be in danger to

be destroyed.

Sir John Hotham.] We now contend for all we have, for they would have had all we have. No composition can be had, therefore I would be in so good earnest as to expect no quarter from the Duke; for my part, I do not; not that this Bill, or the other, will effect your security; we must have it in the higher House. If Papists have so much interest as about me, where, upon return of a great one thither (the Duke out of Scotland) he was no sooner come into the Country but the Military Officers went and attended him in a body. It is very dangerous they should so far adore a person, who, I believe, is so far concerned in the Plot. The great Papists

Papists hope, That the sheep will be scattered, when the

shepherd is stricken.

Mr Leveson Gower.] I would banish all the Papists, lest they be like the Court, in the Long Parliament; when they had taken off one active man from the interest of his Country, another as considerable did start up. They take all the care to get the Protestant Papists into the Administration of the Government; they are encouraged, and true Protestants turned out. Next to Papists, I would consider to put out those popishly affected. When they are banished, next you may take into consideration how their Estates shall be disposed of, and how to breed their Children, and that the next Heir be a Protestant—I would have a Bill to banish all considerable Papists, excepting no one man in England whatsoever.

Sir Francis Winnington.] Those Motions that have been made are very considerable. In the condition we are in, no man will hinder what is against Popery; but the Order the Committee is to go by is, "To consider the State of the Kingdom." Now, if you will be pleased to take a memorial of what Motions have been made, and no man contradicts it, when the Debate is at an end, the several remedies proposed may, upon the whole Debate, be put to the Question upon every one of them; not to foreclose any thing. But pray put no Question upon any

of them, till the whole Debate be ended.

Sir William Jones.] I take leave to differ from the Gentleman that spoke last. Our state is so bad, that I fear, if we launch out into particulars we shall do nothing. Some matters are so single, that to say them by will be the way to forget them. All our Grievances, were they ever so great, or their numbers ever so many, yet our security against Popery is the most necessary. Therefore I am for that. This matter being the sense of every man, I would have the Question, "Whether it shall be recommended to the House, that such a Bill be brought in?"

Mr Harbord. Whoever thinks that this will answer your expectation, in the whole matter, will be deceived. For my part, to take away the prospect of a Popish Succeffor (which puts the people in fear) the first step to weaken that Man is to take a Province from an enemy; you will make a great step, by banishing the Papists the Kingdom, and this will create a distrust betwixt them and the Duke. They will tell the Duke, " It is for your fake we fuffer all this;" and they, being abroad, will abandon his interest, and discourage him. When the Bill of Succession was debating, a Gentleman [Hyde] talked of "a loyal Party, that would flick to the Duke." We will be loyal to our King; let them be loyal to their We will support our King; let them support theirs. You may have talk of Rex de jure, and Rex de facto, which I value not.

Mr Trenchard.] I would spend no time, which propofal to take first into consideration. If we run over all our Grievances, and have remedies for them, nothing can be a compensation for our loss of the Bill against the Duke's Succession; but we may in some measure supply it by banishing the Papists the Kingdom; and not to stop there, but that no Papist be capable to enjoy one foot of Land, either of Freehold or in Trust. As the Law is now, the King is to have two thirds of the Estates of Papists convict, which is of little advantage to the Crown; and that the next Heir should not enjoy the Estate, unless he be a Protestant; and means to discover Trusts. That it be Felony to be in Trust for any Papist's Lands, and that any Foreigner that can purchase twenty pounds a year

Mr Hampden.] I do not take this Bill for banishing the Papists to be full payment for the loss of our Bill in the Lords House, and I hope, before the Debate be over, it will be made fully appear. Taking away the Army of Papists will not fully do. Popery, in a great measure, is set up for Arbitrary Power's sake; they are not so forward for Religion. For well informed men of the Protestant Religion to turn Papists, there is something of interest in

may be ipso facto a free denizen.

it, and when men are given over to it, it choaks mens understandings. Pray therefore put the Question, "That one means to suppress Popery is to banish some considerable Papists out of England."

Mr Paul Foley.] I cannot agree to this Bill fingly, for you give them provocation by banishing them. Therefore in the fame Bill, I would enable the Protestants to defend themselves against the Papists, or any in their behalf.

Colonel Titus. Pray observe one Rule from me: If you will do nothing till you can do every thing, we shall do nothing. One in my house advises me not to fuspect thieves, but to disarm those that would help me, and arm those that would hurt me; but my house is robbed during this Debate. I heard it from a great man, the Swedish Ambassador; says he, "You are perplexing yourselves with the Papists; their principles are fuch, as oblige them to give you perpetual diffurbance; you exercise cruelties upon them, a disturbance to them, and unquiet and danger to us. Banish some of the principal, and the rest will run away." Whilst we are in deliberation what to do, we shall all be ruined: it is not their Number, but their Quality; their Heads will be taken away, the rest will signify little, and at present it will give you great security; and you must begin fomewhere; and you do not preclude yourselves from going farther.

Sir William Cowper *.] If the Swedes had not banished a Popish Successor, they had never got out the Papists, and if any Papist be found there to come to the Crown, he is dispossessed. The late Queen of Sweden voluntarily refigned her Crown, for fear of being deposed; but they keep not up a standing Army (as has been faid) to maintain this Law, but from apprehension of foreign Power, all their neighbours doing the fame. Unless

^{*} Father of Lord Chancellor dictment against the Duke of York Cowper, and one of those who had for not coming to Church. He this year presented Reasons to the was Grandfather to the present Grand Jury of Middlesex for an In- Earl Couper.

you banish the Duke, as well as the Papists, we can have no hopes of preserving the Protestant Religion and

the quiet of the Nation.

Mr Harbord. This Day is appointed to confider of the State of the Nation; and you have appointed a Day to confider of the King's Speech (which was a wife one) which I shall remind you of. The King asks you, "What you would have done for your fafety?" Now if you make wife steps, you will gain ground upon the affections of the People. I must confess, I am one of those who would lay things plainly before the King. I would fain now try the King what he will do, as an Earnest-penny, and would fay, "Sir, your Majesty promifed in your Speech that you would do your part to contribute to our fafety; here is now a tryal; our Addresses have had small effect, and great matters have been expected from your Majesty this Parliament." Let us fee now if the King will come in to us, and we shall fee whether the King's Council be to blame; and the Papists will see they have no trusting in the King for them. It is one good step, not to involve this with other matters; you will else raise up difficulties. Motion will be one step to secure you; when that is done, I hope the Bill will pass in three days, and I hope for greater: If not, I expect nothing; and the People will think you have done worthily.

Mr Foley.] The Danger of the Papists is, that the Government should take their parts, or should have foreign affistance to support them. The Design of this Day is to propose something to secure the Protestant Religion,

and I would do nothing else to the King.

Mr Garroway.] I rise only to speak to that of having all to go in a single Bill. I have seen an unlucky miscarriage in things so yoked, that they could not go forward. By this, we shall see where the thing pinches. I think a great many things are amiss, and when you suppress the Papists, take heed you do not forget Protestants. I have not seen your Bill for Indulgence, &c. I would unite Dissenters, for that disjunction has made you weak.

That

That Bill will invite Protestants who are persecuted abroad to come hither, and we shall have them instead of Papists, and to consider whether our great Judges shall have their Places precarious—We have no great reason to be fond of these, for what they have done. I would have some provision against illegal Commitments by Secretaries from the Council-Board, and to consider of inland Garrisons. Pray, who are these men to sight against? Pray sink the inland Garrisons to defend Tangier. You have had many things complained of; do not set up your rest here. I cannot but mention the unlucky Peace at Nimeguen, and the Army at Blackbeath. This, that has been proposed, is first necessary, and pray let it go alone.

2. Refolved, That it is the Opinion of this Committee, that one means for suppressing Popery is, That the House be moved, that a Bill be brought in, to banish immediately all the consider-

able Papists out of the King's Dominions *.

Sir William Jones.] The Parliament of England has power over all the subjects of England; we may banish the Papists out of any place; we shall put such penalties into the Bill, and I hope we shall banish them out of Scotland,

as well as England.

Colonel Birch.] When you do this, I hope you will make more hafte. I am for an Addition to the Queftion. Let care be taken of other things, and that they have no prospect of a Popish Successor. Pray take care to fend away the Priests as well as the Laymen. Let that be an Addition to the Question.

Colonel Titus.] If they be beggars, they care not where they go, nor for you, but those that leave Estates behind them; therefore I move, "That they may be banished out of the King's Dominions."

Which passed as above.

Mr Montagu.] My opinion is, that this alone will not do your bufiness. When a house is on fire, and buckets of water are not sufficient to quench it, the engine must

^{* &}quot;Of England" was afterwards inferted in the Vote.

be made use of. Our only security is Lord Cavendish's

Motion; an Affociation.

Sir William Cowper.] We cannot now exclude the Duke from the Succession; the Lords have thrown out our Bill. The next best thing is, to be able to defend yourselves against him. That being done, the King will be more forward to remove ill men from his Council.

Sir Thomas Meres.] As your danger grows greater, fo must your remedies too. I do not desire to oppose any thing that has been offered, but I would willingly know what Associations have been formerly. I have not searched into this thing; but if it was a Law in Queen Elizabeth's time, I should be glad to see it, and

have it read. It is wholly a new thing to me.

Colonel Birch.] Before we come to vote an Affociation, I would fee the nature of it, that so we may not defend ourselves with fig-leaves. But till care be taken to prevent a Popish Successor, you do nothing. Till then, the King cannot be safe. I would therefore vote, "That as long as we are in danger of a Popish Successor, neither the King, nor we, nor the Protestant Re-

ligion, can be fafe."

Sir Henry Capel.] This Debate is occasioned by the Negative our Bill has received in the Lords House, and nothing proposed from thence instead of it. As long as we have a Popish Successor in prospect, we have no safety for our Religion. You must begin with the hands in the Government. If the Government be in an Army, you must begin there; if in the Navy, then begin with the Admiral. Some men, by that prospect, will comply out of ambition, and some out of fear. Take this as a foundation, and something may be farther offered.

2. Refolved, That it is the Opinion of this Committee, that, as long as the Papists have any hopes of the Duke of York's succeeding the King in the Kingdoms of England and Ireland, and the Dominions thereunto belonging, the King's Person, the Protestant Religion, and the Lives, Liberties, and Properties of

all his Majesty's Protestant Subjects are in apparent danger of being destroyed.

Sir Francis Winnington.] Though it be late in the Day, I must move you, that this will not do your work, though it be a good ingredient. I look upon it, that in this Day's refult the King's welfare, and all his Protestant Subjects, are concerned. I will speak plain English. We have had the misfortune to lose our Bill in the Lords House. Every Gentleman here speaks for the public interest, and I cannot beat it out of my mind, because whoever was against that Bill hath not given us any other fecurity. Those Lords who were for that Bill. and against Lord Stafford, are in great danger; and Nature teaches felf-preservation. But it is difficult to speak to this business, when the whole frame of the Government is out of order, and Popery fo publicly carried on by the Ministers. From the Minister of State to the Constable, they are either Popish, or dare not but do as they are commanded. This Bill which paffed this House (I will not fay, Nemine contradicente; I will do no man wrong) we have no material fecurity without. Whoever advised the King against it, value their own fafety more than the Protestant Religion-Pray God their Posterity feel it not! Judges that hurry away a Jury, and fuch as are afraid of the strength of that Bill. throw it out, right or wrong. Most have the same sentiments I have of it, if they be Protestants. What I conclude with shall be Lord Cavendish's Motion, who humbly bewailed that Bill. I will conclude, if it be possible, to have that Bill, though not yet in effect, yet not to lie in our beds and fuffer our throats to be cut. and cry, "God help us!" and have nothing to help ourselves. But by reason of our condition, I will prefent to your consideration the State of the Kingdom, still in order to this Affociation, or to provide a better Expedient to fave us. On every occasion, we have complained of Mismanagement of Affairs. When the Parliament does not fit, the Council-Board fends out M 2 ProclaProclamations under the Great-Seal; and the Council undertakes to judge Rights of Freehold and Trade; and lets ships go for the African Company, as the persons are Popishly affected, or not. Judge Archer held his Place by Patent, Quamdiu se bene gesserit, and yet he is turned out; and there will be Error in Fines if he be not named in them. He is turned out of his Freehold. and yet Fines run in his name. If a man be put out of the Freehold of his Office, the next step will be, the Freehold of his Land. A Law to make the Judges Places Quamdiu se bene gesserint, would be to much purpose, when the Council-Board shall turn them out at pleafure !—And if you check not the Exorbitancy of the Judges in intervals of Parliament (it may be, they thought we should never have Parliaments more) you may lofe your Lives and Freeholds. These Proceedings of the Council-Board, and the illegal and arbitrary Actions of the Judges, must have marks fet upon them. It may be, Gentlemen may see strange Agitations in Corporations of the debauched fort of the Kingdom, who have no fort of Religion, but will warp with their interest. I fear them more than Papists; they are supported by ill Ministers, fetched as far as Berwick; and if a man acts according to Magna Charta, he lies in prison, pays great fees, and is fent home with reflection into his Country. That Act of Corporations is horribly abused; ill men taken in, and the best kept out. Another thing I am unwilling to speak of, and that is, the Clergy fwerve and warp; a fort of Clergy, that, when the Protestant Religion was in danger, threw out the Bill like a dead weight *, and never would fo much as hear our Reasons for it; right or wrong, they were resolved to do it; and these are the men that must rectify our consciences. There are another fort of dignified Men; when half a year ago Popery shined mightily, their usual discourses were, to comply with their interest, which, for the loaves and fishes, would excite

^{*} Three Bishops only voted for the Bill.

the Judges to severity against Dissenters. When we see the Militia of London, what effays they have made, and in the Country, if they please, they disarm men at difcretion; God forgive them that made that Act! is a most arbitrary Power; if they favour Popery more than the Protestant Religion, they may disarm all the Protestants. Here is our mischief, this mighty unlimited Act made with a handle to destroy all Protest-This being fo in the feveral parts of England, both in Church and State; and as for the University, Lidcutt, that gave Evidence for Lord Stafford at his Tryal, and a Fellow of King's College in Cambridge, in that great Presence to avow the Employment he had from Lord Castlemaine!—And this is from men that govern the Militia, the Law, the Church, and Council-Board. If you were an eye-witness, as we have been in the Courts of Westminster, it would make you long for a Parliament. But what has the poor Protestant to defend himself? By what Fitz-gerald informed you at the Bar, the welfare of all Ireland depends upon this Session of Parliament, and, I believe, of England too. Our danger increases every day. We have addressed for the Removal of some Great Men from the King's Councils, but not one man has been removed. Judges have been accused, and not one man displaced; and whilst we rectify, not one step is made to amendment. Our Ancestors never found one good Bill that the Lords rejected; they have thrown out our Bill, and propose not one word of Expedients; but the design, I believe, is to make the House of Commons do something to deny themselves. If once we could see a possibility of having the Bill against the Duke pass, the King would be eafy, but some Ministers uneasy. In one week then, no doubt but we should be all safe in our Liberties and Religion. When I have faid this, I put myfelf into a hard question, What to do? The last Parliament made a Vote, "That, should the King come to an untimely end (which God prevent!) they would revenge it to the utmost upon the Papists." I would willingly serve the M 3 King;

King; but would to God he would let us ferve him! I will tell you what I read this morning in a Law-Book. It was Calvin's Case, Coke's seventh Report, fol. 4. It tells you what makes a lawful Subject: " Protettio trabit subjectionem, Protection is reciprocal. An Englishman (and a Parliament, a fortiori) if like to be ruined, may come to his Prince to be faved." I will give you one instance more. I think I am not at the bottom of the business. The Pensioners passed the Poll-Bill for an actual War against France, because the Ministers had absolute necessity for Money: The Treasurer's Letter to Mr Montagu was " to make peace for three hundred thousand pound, &c. but he must keep it close from the Secretaries*," and it was compounded to deliver us up to France. (Men may fuffer fecretly for what they fay here fometimes.) But what shall we do to be saved? I find, in Queen Elizabeth's time, that it was apprehended a Popish Successor would undo her in her Reign: Though the Protestant Religion was not yet well-grown, the People of England entered into an Affociation, "That, if the Queen should fall, or the Papists should make any Attempt upon her, they would avenge it even unto death." But I have heard fay, "By what Law did they this?" There were good Ministers of State in those days, and the Parliament so well countenanced that Action as to make it a Law. (He reads one Paragraph of that Affociation, &c.) But the cui bono of all this. You have heard good Propofals to-day, to draw a Bill of Affociation by. You may take notice of the danger Religion is in, and the King's Person, and all his Protestant Subjects. If this be true, we have a Right to be protected. I would agree to an Affociation; and, if the Lords redrefs us not, then I would make Application to the King, to be a screen betwixt the Lords and us; and now they have swallowed Lord Stafford, they may be of our minds; fo that I move with other kind of hopes and language than I used to do; for I believe the Lords fears increase as well as ours. (According to

Rule of Grammar, "a Popish Protestant" is a contradiction, but in Religion it is a great truth.) I would have it, by this Bill of Association, "That any man may take arms against a Popish Successor, and Felony to resist." You must take some speedy remedy, or else all is undone.

Sir William Jones. Here has been much Debate upon this matter. Winnington has faid fo much, that he has left me little to fay; he has enumerated many things, but, amongst the rest, he has not spoken of an Association against the Judges, Clergy, or Privy-Counsellors. For my part, I think fuch an Affociation a very good thing; though I tell you, my fears are, that we shall have as little fuccess in this matter as we have had in the former. The interest of the same men that stopped the Bill in the Lords House will stop another if it be worth any thing, or if it be adequate to the former; but that ought to be no discouragement: But to take a pattern of Affociation from that of the 27th of the Queen, that will not do. The Taylor that made me a fuit when I was feven years old, cannot make me one by the fame measure when I am forty. Those who were her Counsellors and Ministers, at that time, took great care to keep out Popery; fo far was an Affociation from a Crime, that the Privy-Counfellors at that time joined with the people in it. I hope they will do fo now; but fince they are not of the same disposition now, as they were then, I fear it. I wish they were. I am not Lawyer good enough to dispute whether an Affociation for prefervation of the King's Person be against Law; but if you make it a Law, then it is out of doubt. Mary Queen of Scots was then in being, and there was care to keep off the danger of her Succession; therefore not fo much care then, for the thing would execute itself. There was not such occasion then as now. There was no care to prevent Popery, in the Queen's life, for they did not fear any influence upon the Queen, as to make any fuch attempt during the Queen's life; but I would have this Law take effect during the King's lifetime, fo that if the Papists should be in arms to bring in M 4 their

their Religion, we may have a Law on our sides to defend ourselves. I never fear the Papists arguments, though their Priests are cunning Fellows. If they hold their hands, I never fear their heads. Queen Elizabeth's Case was to preserve the Queen's life, and therefore I hope we shall yet have a Bill excluding any Papist from the Crown. If you do any thing, do that; else a sheet of brown paper will be as good a Law as that of an Association. I have showed you what will do, and what will not, and therefore pray put the Question for a Bill, &c.

3. Refolved, That it is the Opinion of this Committee, That the House be moved, that a Bill be brought in for an Association of all his Majesty's Protestant Subjects, for the safety of his Majesty's Person, the defence of the Protestant Religion, and the prefervation of his Majesty's Protestant Subjects, against all invasions and oppositions whatsoever, and for the preventing of any Popish Successor.

Mr Hampden.] Since this is a Vote to load your Bill, the effential part of it, you must not leave it to Westminster-Hall to determine, but name a Popish Successor.

Lord Cavendish.] I am afraid that, if the Duke be named in the Bill, it will be liable to the exception in the former Bill of Exclusion. As for defining "a Popish Successor," I believe the generality of England will not exclude "a Protestant Successor."

Sir George Hungerford.] In the Holy League of France,

the Duke of Guife excluded Henry IV, by name.

Mr Trenchard.] Mary Queen of Scots was first excluded by Queen Elizabeth, and then passed the Act of Association, and nothing can secure you more than that course; you cannot repose the same trust now, as in Queen Elizabeth's time; to say "a Popish Successor" in general, we cannot repose that Trust in Westminster-Hall in general to define it.

Sir William Jones.] Pray hear my objection, and give me fatisfaction. I am afraid that, if absolutely and in plain terms you name the Duke, you will lose your Bill, and

that justly, unless by a Prorogation of the Parliament; for in one Bill we exclude the Duke, and in another Bill in part of it. If it be so judged, it is unreasonable to associate against a man not named. I desire to have satisfaction in this point, before we do the same thing again.

Mr Hampden.] If the case prove to be thus, that the Bill should be cast out, and therefore the Lords reject it, because it is not Parliamentary; I say then, if the Duke must not be named, he must not be implied, in this

Bill.

Sir William Jones.] We are to affociate de futuro, and that implies Exclusion of the Duke; but if it be as is said, if the Duke be not named, yet you intend him; but I would be informed, whether, because it may not be done, you will leave out the whole Clause?

Sir William Pulteney. I think we are under difficulties. We cannot have the same Bill pass that was rejected the last Parliament. Who shall be judge of this Popish Successor, if the King die, or be barbarously made away? Therefore, if you expect any effect of this Association, it must be in prasenti. In an issue upon Tryal of this, the King cannot be Party, and if this be not settled by you, you will have the Judges and Deputy-Lieutenants against you; if not, some power superior to them to judge it, and it will never be of any effect. I will therefore propose who shall be Judges of this: We are the proper Judges; therefore I propose, "If there shall be a Parliament in being when this shall happen, that Parliament shall determine it; but if none, then the last Parliament that was in being."

Colonel Birch.] If you name the Duke, your Bill will be liable to the objections mentioned; if you run yourselves upon these difficulties, it is your fault. Prudentially, the King may desire to know what assurance you will give him to extricate him out of difficulties? It is one of your desires to be delivered from the Duke by name, and then you are safe from him—But you may be denied that, which if you be, then you may think of an Association.

Bur

But as yet I have not heard what that Association is; it is yet in the clouds; yet nothing else can save us. But if the House, in a Committee, will sit every day, that we may be prepared what to desire of the King; if it be reasonable, all the World are judges thereof. Let this Association alone till all other ways are considered of.

Mt Paul Foley.] We need no longer debate this, for we are all agreed in an Association, but not to the last words of "excluding a Popish Successor;" therefore pass the Question as it is worded, and every one may have farther time to think.

The Question passed as above.

Sir. Francis Winnington.] I believe, the most favourable construction of the Judges will be for the Duke. I would make no scruple of naming the Duke in this Bill, if it was Parliamentary; but though the Duke be named, it is not the same Bill, and we have broken no Rule of Parliament to preclude us; but we may show, at a Conference with the Lords, that this Bill is another thing. To exclude one in prospect, is as if he were naturally dead, quoad the merit of the Crown. This Bill does fuppose a Popish King, but if we see the Duke comes to the Administration of the Crown, "What!" (will they fay) " is the Duke a convicted Papist? If he be not, how can you exclude him the Crown?" In the instance of Hen. IV, they did not deny him King of France, but fay they "We will not lose our Religion by having him King." But this is aliud, it is another kind of remedy than the former Bill of Exclusion, and Parliamentary to bring it in. If this be construed the same Bill, we shall do no good this Parliament—It excludes not him, but faves us -If once it be faid, that this House has altered their minds, and will not name the Duke, it will show weaknefs—One Bill excludes his Right, but this only defends our Religion.

Sir Thomas Lee.] If general words will do your work, why will you use particular ones? If you put it upon

" any person convicted," it will be understood.

Lord

Lord Cavendish.] It is said, "This Bill is not the same with the Bill of Exclusion;" yet you will furnish those Lords that have no mind to pass the Bill with Arguments against it.

[The Duke of York was named in the third Resolve, they were all agreed to by the House, and a Bill was ordered to be brought

in pursuant to the first.]

Thursday, December 16.

Mr Booth reports, from the Committee, the Bill for the better regulating the Tryal of the Peers of England.

Sir Thomas Lee. Tryals of Peers are chargeable to the Crown, and the King's Officers will examine Witneffes before they will bring a Peer to Tryal, that they may be certain in the Evidence. No more is asked in this Bill, than that they may have fair and equal Tryals. If fo, then they should have their choice to be tryed by their Peers, or a Common Jury. (One Peer formerly did defire it, and had it not.) Then they will have the fame liberty with the Commons, of excepting thirty-five peremptory, and against more with cause, &c. Though Indictments be found against them, they will not fear Tryal, when eight or ten thousand pound has purchased a Pardon. Not one of the most popular Lords that goes from hence into the House of Peers, but when Privilege of their Jurisdiction is in Question, hold it the fastest. If you pass this Bill, you will make it more dangerous that the Commons shall not have their Bills they fend up. This case will make it so difficult to try a Peer, that he may embroil thousands, and escape himself. As the Bill is penned, it must be of those Peers who sat in the last Parliament, and may be so of kindred and acquaintance, that a Jury cannot be had, and fo they escape. I will not put them in fo much better condition than the Commons, and the Commons in fo much worfe than the Lords.

Colonel Titus.] Nothing can deter the Lords more from joining with us in things for the advantage of the Nation, than their way of Tryal as it now is; and nothing can encourage

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encourage them more than a just and reasonable Tryal. But as they are now tryed, it is rather by their Executioners, than their Judges. In Hen. VIII's time, how many were condemned without fault! As the Attainder of Cromwell Earl of Essex, and others. Were these men condemned because Tryals were chargeable to the Crown? All forfeitures come to the Crown. Two Lords now commit a Crime; the one is taken, the other left—Appeals are pardoned for Murder—All the Lords desire is a fair Tryal, and not by a picked and packed number of Peers. The objections against the Bill have been sufficiently answered. I am not for the clogging of it with other things. It will be no prejudice to you, but a great encouragement to your Friends, and I would pass it.

Mr Trenchard.] I am forry this Bill meets with objections. I think it is as much for the benefit of the Commons, as the Lords, unless we had the same security that

they will not act but for their Interest.

Sir Thomas Clarges. As the Lords are tryed now, by a Jury of twelve Lords of the King's naming, if they have an aversion to a Lord, they may name a Jury that may do his work; and if the Lord that is to be tryed can make feven of twelve, he is fure to escape. Several Lords, in four or five years time, have been tryed and acquitted. There ought to be some clogs upon the Bill, as the faving of Appeals, and Tryals by battle, and other things. And in the Bill there are no penalties if thirtyfive appear not to try the Peer, and that the Peer is not arraigned—There may be great difficulties and delays, and no Justice done. This way of Tryal has been ever fince the Government, and I think we offer them a great thing, to have choice of Tryal by Commons. This is a great alteration after hundreds of years usage. I would recommit the Bill.

Sir William Pulteney.] The Lords formerly helped us to obtain Magna Charta, wherein is our way of Tryal, and I think this way of Tryal of the Peers is not ancient, and feldom any Lord is tryed, but if the Court-Faction would have it so, his head has been taken off. It is said,

" That

"That the King examines the matter before;" he grants a Commission to the Lord-Steward for trying a Peer;" but that is a weak Reason, for when the Court has a mind to take a head off, they will not stick at four or five hundred pounds—We know the King makes the High-Steward, and if seven Lords agree, the work is done, and they will have consideration for whatsoever fine is set for non-appearance. If this be a reasonable Law, let

the Lords have it to Posterity.

Colonel Mildmay.] I think it as much for your fervice as the Lords, that this Bill should pass without recommitment. This sets the Lords at freedom of speech. I have heard of strange things of the Lords dependencies at Court. "Now," said a Lord, "I must give my voice against my conscience, for bread." And it may be said so in this case of Tryals of Peers, as well as passing Bills or other matters in the Lords House. The Lords were anciently the screen of the Commons; it would be a seasonable thing, to give the Lords that Justice in common Right. Twelve Peers are now more easily had to do a purpose, than formerly. What is the good of this age but present safety, that the Lords might but come justly to Tryal? I would pass it.

Mr Paul Foley.] This Bill comes from the Lords. The Commons may impeach in Parliament, notwithstanding this Bill. I see no objection against the Bill, but that you may pass it. The best way of a Tryal is in Parliament, and you have had a Tryal lately very solemn. The Crown has no inconvenience by this Bill; but I am against making it a temporary Law, which is but a put-

ting it off for so many years.

Serjeant Maynard.] There are many things you are to look to in this Bill. As for the Justice of it, no man can speak against it. If one great Lord have a spleen against another, he can have no manner of exception against him. Those that are his enemies, may be put upon him to be his Judges. Why we should envy the Lords, and not let them be put upon Tryal, as we are, I know not. If they are tryed in Parliament, it is always just,

just, and I hope, if we do this for them, they will do fo for us.

Sir Francis Winnington.] The Argument was, "That there is no means to compell a Lord to appear when fummoned." But in this Bill is now a remedy; if he appears not, he shall be amerced. I am afraid the frailty of men is fuch, that they go fometimes against their consciences, and are not troubled for it. About the Debate of the Long Parliament being disfolved, &c. by that long Prorogation, some Lords were sent to the Tower for it, and flayed there a year *. I wonder whether that was according to their conscience. It is the interest of all Parliaments to keep the balance fo right, that the Government may be kept steady. It was, from the Barons Wars till Hen. VII's time, the interest of the Commons to clip the Lords wings as much as they could. It is a justice due, from the Lord to the beggar, to have indifferent Tryals; and this is the Question of this Bill. It is said to be "a flrange thing to have twenty-five summoned to try a Peer, &c." But is it not more fafe both for the innocent and the guilty man to have more Judges? The Lords are men, and not Angels. Interest and prejudice will lean hard fometimes. Says a Lord, "By this Bill, I have more freedom to make Laws, and debate in the Lords House, than I had before, and it is a more certain way of Tryal." This Bill fays, "That the Lords of the last Parliament shall try a Peer." It may be asked, "Why must those Lords made in the interval and intermission of Parliament be excused?" But we know for what purposes those Lords have been made. But the Law of the Land is for frequent Parliaments, and there is no danger of that. By Magna Charta, "The Lords are to be tryed by their Peers." It carries a kind of degradation to melt down that Judicature to be tryed by Com-As for the Motion, "To make this Bill temporary," when a thing is plain, and no rational objection to the inconvenience of it, I would have it perpetual;

[.] See Vol. IV. p. 81. Note.

especially if it keeps the Lords in that station the Law intends for a way of Tryal. Seeing these clouds about us, it is most reasonable to put the Lords in a safe station, when every man's life amongst them is at stake, for freedom of Speech. I hope you will let them have this Bill.

Mr Harbord.] By reason not only Peers, but the Prelates, may have their Actions de Scandalis Magnatum, nay, if a man speak scandalously of the Judges, a man may be fined upon that Statute now; and you know what sort of Judges we have now, and how they have fined People; therefore I move, that you would repeal that Statute.

Mr Trenchard delivered in a Proviso at the Table accord-

N. B. This Proviso was contrived to prevent the recommitment of the Bill, which might have been lost by it, not out of any expectation that the Lords would pass it, for it was designed to be faintly argued at a Conference, and so given up.

[The Bill, with the Amendments and Clauses, passed, and was sent up to the Lords.]

Friday, December 17.

Sir William Pulteney reports, from the Committee, the Precedents of Commitments by the House, to apply them to Mr Seymour's Case, impeached of Misdemeanor.

"The 18th and 19th King James, Sir Giles Mompession's Case, who was committed by the House to the Serjeant's Custody. He made his escape, and a Proclamation was issued out from the King to apprehend him, (he reads the Proclamation) he being committed by Order of the House, to be sent to the Tower.

"Sir John Bennett's Case, who was Judge of the Prerogative Court, in the 18th and 19th K. James: Resolved, That the Sheriff of London do secure his Person.

"Sir William Penn's and Mr Brunkard's Case, as in the Journal 1668: Penn's runs thus: "13 April, 1668, Ordered, That Penn do attend the 14th." And then there is a Narrative of Penn's embezzlement of Prize-Goods. "Ordered, That on Thursday next he make Answer to his Charge." The Committee was to acquaint Penn with this Order, and Penn was to deliver his Answer.

" A Letter

"A Letter from the Commissioners of Accounts was read, and the Evidence was read; and the Question was put, and an Impeachment was ordered to be drawn up against him, and to fearch for Precedents of Suspension from his attendance in Parliament."---" Ordered, That he be suspended whilst the Impeachment is depending *."

"Mr Brunkard not being to be found, for his Contempt in waving the Justice of the House, Ordered, That he be expelled

the House +."

Then Sir William Temple acquainted the House, That Lord-Stafford had sent for him to come to him in the Tower. In the years 1665 and 66, he knew him at Brussels, but since has not been much acquainted with him, but by visits. It was no pleafant message to him from a man in that Lord's circumstances, and guilty of his Crimes. He humbly desired that some Members might go with him, if the House pleased." But out of respect to Sir William Temple, all cried out, "No, no," and he had leave to go.

Mr Harbord. The Precedents reported were such as the House ordered to be searched, which were none but Commitments upon Impeachments. Mompesson was committed to the Serjeant, but he broke from that custody, and the Lords censured him; they degraded him from his Knighthood, and fined him a fum of Bennet served for the University of Oxford, and was Judge of the Prerogative Court. He took great fums of Money and Bribes; he likewife was turned out of the House, but being sick and infirm, was permitted to flay at his own house. He was ordered to be conveyed to the Tower by the Sheriff of London, or to take fecurity from him for his appearance. There are two other Precedents in the late Long Parliament. Penn was accused by the Commissioners of Accounts of taking Prize-Goods out of an East India ship: He stood up to justify himself from the Articles, and was suspended. Precedents of Commitment were fearched. Mompesson ran away, &c. Bennett was not committed, &c. Brunkard was accused for causing the Duke's ship to strike fail, when the Fleet was in pursuit of the Dutch.

Sce Vol. I. p. 142, 3. This Report is erased in the printed Journal. + See Vol. I. p. 144.

fled.

did not attend the House, and was expelled, and Articles were exhibited against him. As for the state of Commitment in general, I find Precedents anciently of Commitment for Crimes of much less nature, as, for speaking scandalously of Acts passed, 19 King Fames: Mr Shepherd faid, "That the Bill for the better keeping the Lord's Day was rather like a gin against the Papists, than against the Puritans." Whether he had an inclination to favour Popery, I know not. He did not explain, in his Place, to give fatisfaction to the House, and was expelled. Sir Edmund Sawyer was the King's Servant: He exacted double to the Book of Rates. Hervey and Dawes. Farmers of the Customs, were commanded to come to Whitehall to discourse the matter. By the Duke of Buckingham's favour, Sawyer came to the House, and there were arguments upon it—Sheldon was expelled the House. and was made not capable to ferve in Parliament. Dr Parry, in Queen Elizabeth, &c. For a hundred years last past, Precedents are clear of Commitment of persons impeached. Upon the whole matter, I move, "That you will commit Mr Seymour to the Serjeant."

Sir Joseph Tredenham.] I did attend the Committee that you ordered to fearch for Precedents: The matter has been opened by Harbord; give me leave to express it more fully, and to have recourse to the Paper in my hand to help my memory. The 18th King Fames, Sir Edward Coke was Chairman to the Committee of Grievances. Mompesson was charged for the Monopoly of licensing Inns and Ale-houses, &c. He confessed his Crime at the Committee, and before the House; and the next day, upon the Report, the House resolved to go up to the Lords to impeach him: Then, and not till then, he was committed. He confessed the Crime he was charged with, and for fear of flight he was committed. Sir Edward Coke delivered it as the opinion of the Committee, "That, unless some persons would undertake for his forth coming, he should be fecured by the Serjeant." After this Vote for his Commitment, the Commons addressed the Lords, and both the King, to iffue out a Proclamation to take him, being Vol. VIII.

fled. Sir John Bennet's case was much the same, for exorbitances in a Court of Judicature. Sir Edward Sackville made the Report, "That he had taken many bribes, and had committed extortions in his Office." Rennet was not in the House; he was sick, and was heard by his Counsel at the Committee, and the House would not fuffer them to be judged, till they were heard in their Places. Bennet continued his excuse of sickness, and his Counsel being asked, "Whether he would confess, or deny, the Charge," they faid "Neither." Whereupon the House came to this Resolution, "That Bennet is faulty;" and so he was ordered into the safe custody of the Sheriffs, &c. to be committed to the Tower of London. The other Precedents reported are foreign to this case before you. They were committed upon the notoriety of the thing, and suspicion of flight. Penn's was only suspension of the House, and Brunkard, for his slight, was expelled, and an Impeachment voted against him; but nothing of Commitment. As for Shepherd's case, 27 Elizabeth, I know not where Harbord finds it; it is not in any Journal of that time. As for Hall's case, no doubt but this House has power of judging their own Members: It was for a Book reflecting upon the Proceedings of this House, and so judged, "upon the House itself." You are upon profecuting Seymour in the Lords House, and so I suppose your Commitment of him is in order to his custody, not his punishment. In cases of Information, you have not expelled a Member without Witnesses being heard. It has been moved, "That Mr Seymour might be fecured." I appeal to you, whether an Impeachment be not the feverest charge? It has always been, that Members of the House are free from Arrests, unless in case of Felony, Treason, or Breach of the Peace—Have you a mind to think fit that Seymour be committed for an accusation that Westminster-Hall does bail? For liberty of a man's person is as essential here, as liberty of speech. In Hen. VI's time (it was an unfortunate age, I wish ours more fortunate) the Duke of York then aiming at the Crown, no one man stood so much in his way as Thorpe, Speaker

Speaker of the Commons, who upon an execution arrested him. This Parliament did what they could for the House of Lancaster, and from thence came the Civil Wars, and so much blood; but the same Parliament could never extirpate the House of York till they garbled it. If once you pass a Resolution, "That an Information upon a bare Averment must be necessarily followed with Commitment," I would know, Whether you garble not the House? But consider the consequence; no man's innocence can save him, if his Testimony is not heard till his Tryal. I would know, whether the Gentlemen, who would commit Seymour, think he cannot find security for his appearance? There is no likelihood that Seymour should shun his Tryal. I move,

"That he may not be committed."

Mr Harbord. The Chairman was directed to report what he did, and no more, and the Committee, if there be occasion, will justify it. I did not cite Hall's case, but the Journals were brought to us, and none beyond 1640; fome few notes the Committee were forced to use, and those were brought by Mr Petty, which we took to be authentic. If we had made no fearch but in the Journals, they were so imperfect, that we should have had no Precedents at all. Tredenham told you of the Speaker, Thorpe, arrested in Hen. VI's time, &c. I would preserve the Privilege of your Members, but I remember, about ten years ago, there was a defign to turn out eight or ten Members who voted against the Court. I laid my hand to the work, and, to prevent it, I fearched the Outlawry-Office, and found fifty-fix Members outlawed, and Mr Seymour fat many years in the Chair outlawed. I pulled that out of my pocket, and faved those eight or ten by it that were defigned to be turned out. I know not whether Seymour will run away. I have told you, that my opinion is, to fecure him; do as you pleafe.

Sir William Pulteney.] I observe that, upon Commitments, &c. the Person accused was either committed upon Confession of the Fact, or slight. But it is moved, "That Witnesses be produced against Seymour." But if

he should know before-hand what they can fay against him, they may be corrupted, or menaced out of their Evidence. But when you have given your Judgment that you will impeach a man, there is no Precedent to be found that, when a Judgment of Impeachment has been found and carried up to the Lords, that you should fay, your Member is not in Custody. It does tantamount prove a vindication. When the Commons came to the Lords House with the Impeachment of Bennet and Mompession, they had imprisoned them; and to produce Proofs before that time may be dangerous, and of very ill

consequence.

Sir Christopher Musgrave. There is a great deal of difference betwixt Mompesson's and Bennet's Case and that of your Member. To preferve your Privileges, it is the best way to go by ancient Precedents: Mompesson's Witnesses were heard at the Committee before he was charged. There is a great deal of difference betwixt a bare affertion against a man, and when you are affured of Evidence. One reason why Mompesson was secured, was, because nobody would answer for his forth-coming. If his Commitment was a punishment, yet if Seymour was charged in Westminster-Hall, as the first and second Articles are, they would take fecurity for his appearance. Why will you then confine him? And it may be the Lords will fet him at liberty. You will punish that Judge, I believe, that will not bail a person that is bailable by Law. Seymour may be forth-coming upon fecurity for his appearance. and therefore I would not commit him.

Mr Garroway.] Methinks you are irregular, and a little aforehand with it. You must vote, "That the Articles must go to the Lords;" else Seymour will stand committed, and nothing will appear against him. Sir John Bennet was bailed by the Sheriff of London; and if fo, Seymour may be bailed to be forth-coming, and there is no danger of his Escape, in this case of Misdemeanor; therefore put the Question first for ingrossing his

Articles.

The Articles were accordingly ordered to be ingroffed, and the Serjeant of the House was impowered to receive security for the forth-coming of Mr Seymour to answer the Charge, &c.

Then Sir William Portman, Mr Ash, and others, proffered their

fecurity, &c.

Sir Thomas Lee.] It is not an ordinary case for a Member accused to have so many acquaintance to proffer fecurity for him. You know therefore that you have made an offer to impower the Serjeant to take his fecurity.

Saturday, December 18.

Sir Francis Winnington.] Last night, about eleven of the clock, just as I was going to bed, Dr Burnet came to me from Lord Stafford, where he had been at the defire of Lord Carlifle*. He faid, "He had no perfonal acquaintance with Lord Stafford. Upon his first discourse with my Lord, he defired him to come another day, and upon his fecond waiting upon him, was an hour and a half in private with him; when my Lord defired to be heard at the Bar of the House of Commons, for he had fomething to fay for the service of the King and Kingdom." Dr Burnet defired him to make fome confeffion of his Religion—" Before he came away, Lord Carlifle was with him, who had been there before, and who had made the Lords the fame Motion. He defired there might be no delay, but that he might come on Monday."

* Lord Stafford sent a Message to the Lords, desiring that the Bishop of London and I might be appointed to come to him. We waited on him. His defign feemed to be only to possess us with an opinion of his innocence, of which he made very solemn Protestations. He desired me to speak to Lord Effex, Lord Ruffel, and Sir William Jones. I brought him their Answer the next discover all he knew concerning the Papists defigns, and more particularly concerning the Duke, for" thither.

they would endeavour that it should not be insisted on, that he must confess those particulars for which he was judged." Burnet.

The Bishop mentions nothing of Lord Stafford's defire to be heard at the Bar of the House of Commons, but fays, "That he defired the Earl of Carlifle to carry a Meffage from him to the House of Lords, "That whenfoever they day, which was, "That, if he did would fend for him, he would difcover all he knew;" and "that upon that he was immediately fent

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Lord

Lord Russel.] Just now, coming through King-street, I met Dr Burnet, who told me, "He believed that Lord Stafford had something to say that might be worth hear-

ing."

Sir William Temple. I did not expect to have heard any thing this morning from Lord Stafford. I intended to have faid fomething of him myself; but I thought it not natural till this matter gave me occasion to entertain the House with it. In short, this passed betwixt Lord Stafford and myself. I thought it not fit to go to him alone. I took a Gentleman with me, who is well known. I found with him Lady Stafford, and the Marchioness of Winchester, his Daughter. When I came in, he looked coldly upon me. (I had not feen him for two years.) He faid, "He had fent a Message to me, and had fomething to fay, but not before any body." I faid, " If it were fomething material, that he would fay before nobody but me, I defired his Lordship would put it in writing." He faid, "He would not write it." Then faid I, "My Lord, it shall be written for you, if you will fign it." But that he would not do. He said, "He sent to speak with me, as a Man of Honour, and his old acquaintance, to ask my advice." I promised him, "If he would put what he had to fay in writing, I would make no other use of it, than what became a Man of Honour." Just at this time, came bolting in the two Ladies, and asked me, "If I had any interest with the Lieutenant of the Tower, Mr Cheeke?" Whereupon I turned to Lord Stafford, and faid, "Have you no farther fervice to command me?" He replied, "All the service my friends can do me is to believe me innocent." The Ladies spoke something of my interceding with the Lieutenant of the Tower, to abate fomething of his severity in my Lord's restraint; and this is all which passed then, which I thought it my Duty to give you an account of.

Colonel Titus.] By circumstances, out of generals that have been told me, I conjecture that Lord Stafford

has fomething to fay of importance. I would therefore have him fent for hither as foon as we can, for there are those who tamper with his conscience; therefore I would fend for him to-day.

Mr Harbord.] He may be useful to you, therefore it is absolutely necessary to have him here as soon as you can, for his Daughter will be tampering with him

elfe.

Sir William Jones.] It is beyond my Expectation that Lord Stafford should say any thing of moment to you; he has not only the access of his Wife and Daughter, but of all the Romish Party. His Picture is to be sent to Rome, for what use I know not; and they have sufficiently dealt with him. But has this House any Power to send for him? I believe not. He is not committed by ourselves, a condemned man, and a Prisoner. I had rather see what the matter is; for if this be done by the advice of the Jesuits that prevail upon him, they have taught him his Lesson. I move, therefore, "That a Committee be sent to him," and then you may take into consideration whether to send for him, or not.

Sir Francis Winnington.] I did conceive that it was not your intention to order him to be brought hither to our Bar, as I faid to Dr Burnet, "the Lords were his Judges, and our Profecution is at an end." But if the House will give him leave to come to be heard, the Lords have a Power to send for him, and if the Lords will give leave, you may send for him. I did ask Dr Burnet that very Question, "What he had to say?" Lord Stafford absolutely would not tell him any thing, but at the Bar of the House he would acquaint you with what he had to say. I have acquainted you with matter of fact, as it is my Duty, and

I have done.

Mr Garroway.] Consider, this Message is from a condemned man; it may be, he will come to affront you at the Bar, and make protestation of his innocence, and throw dirt upon your Proceedings against him. Unless you can bind him up from that of Protestation, he may

come to throw defiance upon you, and you can have no

remedy from a condemned man.

Serjeant Maynard.] Whatever you do, do it without delay. If he confesses nothing, it is but labour lost, and you may possibly have great advantage by it. You have yet had no discovery of the Plot but from

Papists: God knows what he may discover.

Colonel Birch. I hope this Lord will not be fent for by the Lords. If you could fend for him, I would; if you would give fome fuch hint to two or three you will fend—But when he fays positively " he will fay nothing but at your Bar," it is apparent he will put a sham upon you. He has taken the Oath of Secrecy that he will reveal nothing, and he will come to you to tell you fo in defiance. If he will fay nothing to them that you fend to him, it is perfectly clear to me, that he will put a baffle upon you that you can never be able to repair, and it will look very odd in the face of the Nation.

Mr Hampden.] I am not for fending for him. How much time may be loft in it! His relations have more influence upon him than ten Jesuits. You see they came abruptly upon Sir William Temple, and he talked of his innocence, and a Tale of a Tub; it is the women that influence him. I would fend two or three Members immediately to speak with him, and then you may fend for him to your Bar. What, a strange expectation there was at his Tryal that he would discover something, and yet he did but trifle with you! I would fend to him imme-

diately.

Sir Nicholas Carew. I am against sending to him; for what he confesses to a Committee will not at all be valid, and he may be poisoned before you can fend for him to the Bar. Therefore I move, "to fend to the Lords to let them know you have had fuch a Message from him. and defire leave of them that he may come to your Bar."

Sir Eliab Harvey. I am not for fending for him, and I hope you will fend fuch men as you put confidence in, that there may be no danger of poisoning him,

and they will inform you if he has any thing to fay of

consequence.

Sir Robert Clayton, I am more jealous of mischief from this man, than any good. I am against both sending for him, and to him. He has relations in the Lords House, and I believe will declare there if he has any thing to say, and I would respite it till Monday.

Sir Robert Carr.] We can do nothing of our own authority. I defire therefore that you will fend to the Lords for a Conference relating to Lord Stafford, and in that you may bring the opinion of both Houses toge-

ther.

Mr Love.] One Argument sways with me. Sir William Temple told you, "That the Ladies came in and interrupted their discourse." If he has a design to put a trick upon you, you may consider that, from the return you will have from your Members you will send to him.

Sir William Jones.] It is faid, "That Lord Stafford is the King's Prisoner;" but he is our Prisoner, and not called the King's Prisoner, for a farther reason which you may know in due time. The Lords cannot send for him but by a Habeas Corpus, and every day he was brought to Westminster-Hall during the Tryal, he was brought so. A Conference with the Lords may spend this day, and, it may be, Monday too, before we can hear him. Therefore I would send a Message to the Lords for a Habeas Corpus to bring him hither. If the Lords say, "He has nothing to say, we will not hear him," by this means he may be brought this morning; and he will then do no harm here, if he has nothing to say.

Sir Francis Winnington.] I do hear that the Lords are fending for him to their Bar. I would fend that Message (moved for) however, though the Lords have sent for him, and if he says nothing there, you need trouble

yourselves no farther with him.

Sir Thomas Lee.] I think now we are upon the worst way of all. I desire you will consider the consequence in future

future time. A Prisoner, that is in execution for debt, you cannot send for hither, and this is the same thing. If the House has authority to send for him by Habeas Corpus, why will you send to the Lords? I would well consider what steps you make in this, especially whilst you have to do with the Lords in their Jurisdiction. Lord Stafford knows methods of Parliament, that what is said to the Lords by him is said to you. Be pleased to order a Committee to go to him.

Mr Garroway.] I would not trouble you at this time, but that the whole state of the Debate is now altered. The Lords have sent for him, and your curiosity will be satisfied by that, and sure you cannot be so ill befriended as not to have information from them. Therefore I would give no advantage to Lord Stafford, for you may

have that fatisfaction from the Lords *.

The King's Speech was read. (Which fee p. 147.)

[Debate.]

Mr Hampden. The confideration of the King's Speech is a matter of great consequence; and whatever the iffue of this day's Debate may be, it will have influence upon the Kingdom. Here are Proposals on both sides, and "what the King expects from you." I am not able to give Advice, but I hope many worthy Gentlemen will correct my Errors. This matter in the King's Speech being fo clear, you will quickly come to a Refolution. But here is a refervation still; you are promised security for the Protestant Religion, and that we shall be upon the old basis of the Law, with the same refervation, the same promises you have had before. You have not thought of interrupting the Succession in the right Line, but as to one Person. What the Loyalty and Policy of those perfons who advised this, is, I am to seek. That Loyalty was never understood fo, that the next Heir to the Crown should be so immediately provided for, that the same care should be of the Successor of two or three years

^{*} The above Debate is not mentioned in the Journal,

difference of age from his Majesty's, as if there was the distance of twenty years. It is strange that any man can have the countenance to be so very sollicitous for the Successor as these men are; it is not the policy of other Nations that fo strange a care should be taken for the Succeffor. Certainly in this you have much to fay, and have faid much. It would be troublesome to enumerate all the instances that have been given—The Laws against Popish Government were to have been subverted, and confederacies with Priests and Jesuits-And all for the prospect of the Duke's fucceeding to the Crown. The Duke has it not in his power, should he be King, to permit that Protestants should be in the Kingdom. There must come in another supreme over him: The Pope will be supreme, and there can be no power in the Duke to show favour to the Protestants, if he would. There is another branch in the King's Speech about Alliances, &c. Either they are for the Protestant interest, or not. If they are not such as you like, what neighbour will come into fuch Alliances, when fuch fears and jealousies remain amongst us? We may flatter ourselves with Alliances, but if this Plot be not totally extirpated, what performance can we make? There can be no fruit of fuch Alliances. This is a strong reason why you should adhere to your former Resolutions. I move, therefore, "That you will give the King reasons for his own service, and the Kingdom, and the Protestant Religion, that, should you depart from that resolution of excluding the Duke from the Succession, you can see no fafety;" neither will that do, except you fortify it with an Affociation for the fecurity of the King and his Protestant Subjects. These things will go a great way; but you must go yet farther. After you have assurance of your Properties, the next thing, you may humbly propose, is, "That the Judges may be men of ability and integrity, and known to be zealous for the Protestant Religion; and to have their Places Quamdiu se bene gesserint." Next, "That Deputy-Lieutenants and Justices of Peace may be men of good integrity, and firm in the Protestant Religion, and of good esteem in their Countries." In several Countries

tries there are not only corrupt but mean men, " and Lord-Lieutenants to be well qualified also." In the Navy, "That they be men of known experience and courage, and well-affected to the Protestant Religion, and not to be Captains of Ships, unless acquainted with Sea-affairs." These things may be summed up. in answer to the King's Propositions in his Speech. But, Sir, I do not fay that these are all you should look for. That we may mind the fame end, I hope it will not be expected that we must purchase our Laws. One thing the King defires to be fatisfied in, which is, the Prefervation of Tangier. If these things be granted (and I know not how you can depart from them, for if you do, you are undone) you will be ready to supply it, and preserve the Sovereignty of the Seas for the prefervation of Trade. If we have not these things, all our Alliances will fignify nothing; but if they appear to be fuch as are for the interest of the Protestant Religion, you will be ready, upon occasion, to support those Alliances. I would hold to these so far. If you like these, you may order an Answer to be prepared to his Majesty's Speech, &c.

Lord Russel.] I am as desirous as any man to keep a good correspondence with the King and Parliament. Never was there a House of Commons more inclinable to reasonable things for a happy union; but I fear we shall not effect it, because persons about the King pursue the Duke's interest more than the King's and the Kingdom's. I believe we are not long-lived, but they wait for some specious pretence to send us home; but I hope we shall give no just cause for it. We can be never safe in our Religion from a person that makes himself, by his Religion, a public enemy to the Nation. Can he be a protector of our Lives and Liberties, and support us abroad or at home, who is a man of such principles? And nothing will remedy us but this Bill of Exclusion. Therefore I would address the King upon the several Heads that have been

moved.

Sir William Jones. The matter of this Day is the confideration of the King's Speech. Whether we shall be so happy as to come to an agreement, I know not. The King takes advice of his Council in what he fays to us, and if I do not express myself with that Duty that becomes me, it is directed to his Majesty's Counsellors, and not to the King; and this Speech comes from them. They are for a Popish Successor; he is a Bulwark for their This is the fame refervation as in his Majesty's Defence. Speech at the opening of the Parliament; now we have the fame refervation again. These fort of men will make fure of their own point, but I hope our reasons will be so strong as to give the King satisfaction, and never so proper to be given as now. You could not tell the King parliamentarily what you were doing. By the first Address you expressed yourselves implicitly only, and in the fecond Address, after the Bill was thrown out, but not in express terms; you had not then so proper an occasion; but now you have; and therefore I hope now you will. better express your reasons for it than before; but in vain will you urge reasons if they will bar the way to your fecurity. I am glad we have expected Expedients four weeks and have had none, and certainly, no man was for this Bill then, but has more reason to be for it now. The necessity fo plainly appearing, no man will fo much as make a doubt but that you will infift upon The King knows what we defire, but yet methinks this Speech is not of the fame strain as the former. I do derive fome hope from this, when the King tells us, "That all remedies we can tender to him, &c. shall be very acceptable to him, provided they be fuch as may confift with preferving the Succession of the Crown in its due and legal course of Descent." To this, in your Anfwer, you may express "How ready you are to comply with his Majesty in what may consist with your own safety, and that the Parliament will not make a Bargain with their Sovereign, but things being fo now, you are to make as a good use of his Majesty's proffer as you can." Every Bargain has a quid pro quo, so that both these things will

be confidered. Begin with what you expect from the King; in respect of the great dignity of his Person, any grace or favour, otherwife than admitting the Duke to the Succession; for that is but to be fatted for the day of flaughter. Another thing was moved for, Affociation, but it is but a consequence of the execution of the Bill, which is fo reasonable and so natural, that if the first be granted, the fecond will not be denied; one will follow the other; as the banishment of the Papists from the City of London, and the Country, &c. (See in Hampden's Speech.) So that if we have these, it will be as much as is absolutely necessary for the present; but no doubt you will defire to be Freemen. Though excluding a Popish Successor does that, in a great measure. It has been proposed, "That the Benches in Westminster-Hall be well filled, and the Judges Grants be Quamdiu, &c." If that was fet right, fure you could never be deceived. But men that turn the knowlege and ability they have for advancing Popery and Arbitrary Government—therefore no question, but you will ask that thing to be done. That of Justices of the Peace deserves consideration. Some Gentlemen have been put out that hear me, and they know why; fome think, because they were against the Duke the last Parliament, and have been active against Popery; and these are good reasons to be put out, and to put others in. Certainly, if the Papists be at ease, we are in danger, fince we have had abhorring men; it is therefore necessary that good men be put in Commission. In feveral places, for want of better men, they put the Clergy into Commission, and men of mean quality. You have been told of "Lord-Lieutenants and Deputy-Lieutenants, and "of one that has too many Provinces for one man." I hope that matter will not die with you. As for Commanders at Sea, we are an Island, and especial care ought to be had of that; our Ships are filled with such men as are an increase of our Danger. The Ships commanded by those of Popish Interest will bring over Popish Forces; no man that hears me, but will think that neceffary. This is all at prefent that has been mentioned, but but there are a great many other things to complain of. and to defire; but let us not put more in now, for that may turn to our prejudice. I would prevent the mischief of fuch men who would have us defire so much, that we may have nothing. Those about the King tell him. "These men will never be fatisfied; so many things will be endless for you to grant; send them away." And this will not only work upon the King, but upon the people, who will fay that we do not only defire necessary things, but all; therefore pick out the most material; for will there not still be a dependence upon the King? And he will require fomething of us, as we shall do of him. I have talked all this time of one fide; I will come to the other. It is objected, "That if a man do but look towards a Supply, it is faid, What! will you have the King live without Parliaments? They will be called frequently, and you will have time to redress your Grievances." But I will not put it out of our own power. I would have the King live with Parliaments. I would have the King fee that we are not obstinate, nor the People. I am sure they will give us but little thanks; but we will supply the King for Tangier, and the Fleet. But the objection may be. "That it will cost the King a great deal." But we will give the King what is necessary, but not give such great fums that they may live without us; and I believe it will be fo appropriated as not to ferve those ends you intend it not for, but that it may do no harm. The King told you, at the opening of the Parliament, "That he had made Alliances, and that there was a necessity for us to be united, that we might give credit to those Alliances, and that if we lost this opportunity, we could not recover it again, &c." I do not think Money was required of us upon account of a good agreement: that very thing will support Alliances; however, that foreigners may fee, if you are called upon to be at charge for those Alliances, you may tell the King, Alliances are to fecure the Protestant Religion, you will fupply him." This may encourage Alliances; it will engage you to nothing, but may farther Alliances.

Mr Garroway. We have been upon very high points; what we should do for the King, and what he shall do for us. You have been told, "it is not fit to ask too much at this time, to strengthen the arguments or the hands of Evil Counsellors." If you demand short of what you would have, and continue the fame argument upon every Address, I am afraid of that; but we have had little effect of our Addresses we have made, therefore I would fpeak out now; that as long as we have standing Forces in the Kingdom, I fear they will cut all our throats; and fo long as we have Inland Garrisons, and Arms carriedin to Portsmouth, can you be safe? The Office of a Justice of Peace is a Burden to Gentlemen, and no honour; it is below them, and not worth your mentioning. that of "Lord Lieutenants and their Deputies," worth your mentioning, and fo is "the Navy." For Tangier, it is moved that you grant what is necessary; but here you judge the case whether it is necessary. You were told, "it was worth nothing if it could be kept out of French hands." I cannot come up to give Money farther for the Defence of that, till I have heard it debated. for Alliances, I fee nothing with the Emperor, or the King of Spain, to Support the Protestant Religion. We had an Army raised for an actual War with France, and you know what that came to. The Navy will cost a Million of Money before it be fet right, and that is not yet debated. You were told, in the Long Parliament, "That four pounds per head would do it for all things, &c." And now the Customs given for that purpose may defray the Navy, when there is nothing to do but to keep the Ships at Chatham above water, and to go for Convoys, where they rather get Money than strengthen I would make no obligation for Money, till we are fatisfied in the fecurity of the Protestant Religion, and our Property; till then I would talk of no Supply whatfoever.

Sir William Temple.] I think the Question is, "To refer it to a Committee to draw an Answer to the King's Speech upon the Debate of the House." I rise not up to hinder

hinder that Question, but to inform you in one point, which possibly I am able to do. Several things have been faid concerning Alliances; and Alliances talked of with the Emperor and the King of Spain; which cannot be for the Protestant Religion. But the Alliances mentioned in the King's Speech are not those. are with Spain and Holland, for the fafety of Christendom, which cannot be without Holland and Spain. If, in the year 1668, that Alliance had been profecuted, much blood might have been faved, and defolation. I dare boldly fay, that no Alliance can preserve the Protestant Religion, if Holland and Flanders be lost; and we can have no fafety without Alliance with fome Princes not Protestant. There can be nothing meant in the King's Speech to engage the House to give Money, unless France do attack Holland or Flanders. It will be a great support to Alliances to have a Fleet at fea to strengthen them. I shall say nothing of jealousies; but it puts me in mind of a Tew at Amsterdam, who vowed never to give any thing, and would not give his hand to one to help him out of a ditch.

Mr Garroway.] I faid nothing of "Alliances with Holland." If any fuch be, I would know it from

Temple.

Sir Francis Winnington.] I know not whether I shall ever speak here again, therefore I shall speak my mind now. There is a paffage in the King's Speech that comforts my heart, viz. "That all remedies we can tender to him conducing to those ends, &c. shall be acceptable to him, provided they confift with prefervation of the Succeffion in the Right Line, &c." I look upon these words as coming from the King's own good-nature, what his Parliament and People would have, and not from his What has been faid to-day, and this Par-Counfellors. liament would have, is but to talk them over again. The Question is, how we shall carry ourselves to-day, and have no reflection upon us, either from the King or our Country? If the Bill for excluding the Duke from the Succession does not pass, all the rest of our discourse VOL. VIII. will will fignify nothing. He who faid "He was not for the Bill, nor against it," (Garroway) I hoped, would shew us fomething as good as that Bill. But I will never give one penny till that Bill be passed. Men startle at Money, but in this Parliament, Money cannot be pressed without reflection upon us; never to be thought of to propose till we have that Bill, the foundation of our Properties and the Protestant Religion. If we do not see that pass, the Affociation-Bill is but an execution of that Judgment, as we Lawyers fay: That Bill will support the Protestant Religion, and "Loyal" is what is according to Law; and so a man is said to do loyally. All things mentioned this day are for the support of that Bill. But there is a jealoufy in some men, where this Parliament will ftop. To-day we are to confider what is advantageous for us, if we give Money, and what not; as our Ancestors used to do. They farther say, "That little things are asked, as that of Justices of the Peace, &c." but I wish that they think them little things who grant them; and "That that Office is of charge, and a mean business." But it is for the security of the Kingdom that the Civil Peace be kept, and that Protestants may not be branded and run down, in the Administration of the Government. As for Tangier, some are of opinion, "That it is good for nothing, but that it is a loss for us to have it fold." If this Bill of Exclusion pass, then naturally we may think of that; that jealoufy and diffrust is then at an end; but till then I am against mentioning a sum of Money. But then, what is necessary will come under consideration, else Money is but to nurse our disease. Set us on a good Protestant bottom, and then we may talk of Money. I am not for asking all for ourselves, but when we are secure, it is not a fcandal to give liberally. Now therefore, when that which is proposed is done, we will help the Navy, and secure Tangier. Force is the lawful force of the Kingdom; and a Gentleman undertook to prove strange things against the Marquess of Worcester-To settle good Justices and Deputy-Lieutenants; are these small things

things to desire? The general promise is, if these things are done—Those that advised the King to this Speech, have put something of menace into it, though the King broke loose from the Ministers in the last Clause. Let us be ingenuous and plain with the King and the Counsellors, and though we must have a hard bout of it, I would let the King see, that we are not such a fort of people as we are represented to him. I move, therefore, "That, upon the Debate of the House, it may be referred to a Committee, to draw an Answer to the King's Speech, what are the humble and necessary desires of the House." And if this be an unlucky day, we are in a deplorable condition. If our offers be rejected, the World will be on our parts, that we are

willing to fave him.

Colonel Birch.] I have fat still, and would have done fo, if I thought you were directly in the way to your end. I impute it to my weakness rather than to any thing else. I have observed this day, that it is the Judgment of every Gentleman that has spoken, that the Protestant Religion is not in any measure safe under a Popish Successor, and, it may be, I am one of those myself, that am as high in that opinion as any man; and am confirmed in that opinion, when I confider that Queen Mary came in by Protestants, and they were stout, and able to make that good, and she was not able. The Papists told her what she was, and what she must do, and she did it, though with tears. I take the Duke to be in the condition of any man that has committed Treason; only with this aggravation, that one Treason is against God, and another against his Prince. Now the King tells you what his heart defires; only he restrains you to this point of the Succession. This is that great point, that, without this, all is nothing. Why will you not try the iffue upon this direct point? I am for plain dealing, and plain speaking; if this be the great thing, why will you put more to it? This, as has been faid, will be a very good, or a very bad day; if you return not this Answer with wisdom and care, you will have

have the worst of it. I am so far from thinking that this Speech is the effect of ill Counsel, that I think it is from good. I have heard an Affociation spoken of. and rectifying the Commissions of Justices of the Peace and Deputy-Lieutenants, &c.- I must confess it is my weakness, but I am not fatisfied in this way. These are generals, and other things are as necessary, and more may be added; as illegal raising of Money, &c. I would do that therefore to comprehend all these things; I would speak to that; which if we do, we can never miss the rest. I am zealous in this—When you have read this out, here is a restriction, which, if you put other things with it, will not attain your end. I would therefore humbly address the King with Reasons for his passing this Bill of Exclusion, &c. (and you never had better to give) for the fecurity of the people, (if that unhappy stroke should come to the King by these villains) fince yet you have not fhut the door—Till this Bill pass, I am afraid, when the King goes to bed, to hear fad news of him by morning— Shut that door, do that, and it is against the interest of the Papists to offer the King violence. Give the King the reason, the safety and necessity of passing this Bill, and fo long as this is undone, his life is not fafe, and then that you will fupply him with Money to help the Protestant occasion. It grieves my heart to see his family in this They have brought him in, and pray do you condition. bring him out. If you like this way, you may go into a Committee to supply the present necessity, till we can secure our Religion and Property.

Mr Boscawen.] You have heard to-day variety of opinions: I shall humbly offer you mine. It may please Gentlemen to keep their purses shut, but there is as much danger to withold Money when it is necessary, as to give it when there is no use at all for it. I do think we are now in as dangerous, circumstances as ever were known since the Reformation of Religion. There has been an universal Conspiracy of the Papists, not only here, but over all the Western part of the World, to bring in their Religion, and the greatest encouragement given to a Po-

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pish Successor; therefore we ought to consider how to prevent it. If you give Money, I would rather do it to prevent that, than for all the rest. That is the great danger, as Birch has told you; all flows from that one thing. Who had a hand in turning out the Judges, and putting in those who wrested the Laws made against the Papists, upon the Protestant Dissenters? It was the same hand that turned out the Justices of Peace: Though it is a great eafe to them to be out of Commission, yet their being in was an advantage really to the King and Kingdom. And as for the Fleet, is there not the fame management? As the Fleet now is, it is rather to your prejudice than your fafety, and yet you will not confider What were the Arguments against the Bill of Exclufion, the last Parliament? That it would create a Civil War, and bring in Foreigners to defend the Duke's Title. We all know, at this day, that the Jesuits make the greatest part of their application to the French King, as fetting up for the Universal Monarchy. This Bill tends to all these things; but if it be granted, and that the Judges and Lieutenancies be in fafe hands, there will be no danger that Money will be taken but by Act of Parliament. You must have all these things to make good that Bill. I move, therefore, " That an Address be made to the King upon these things which have been debated."

Lord Cavendish.] I am extremely satisfied at this day's Debate. If the King would please to find us out some Expedient for this Bill, it would be much for our security. I am of the opinion of those Gentlemen who will stand by the King for the interest of the Kingdom; though I cannot condemn the caution of it, when I consider that Parliament I was of, when Money was given for the Public, and they had part of it. I would not have Alliances discountenanced, because Popish Princes are in them. The Popish Interest relies upon rising and flourishing Monarchs, as France is. I would therefore, in the first place, offer the King those things necessary for our support; and, when we give Money, would

would do it with fuch caution, as to be fure to have fomething for it. I move, therefore, "That a Committee draw up an Address to the King upon these things debated, and for frequent Parliaments also." I would have men of all opinions of this Committee; but I wonder to hear some Gentlemen cry, "The Question, the Question." Three men, sure, represent not the Nation. I would have the Committee numerous, and commit this upon the Debate.

[Refolved, That a Committee be appointed to prepare an humble Address to his Majesty, upon the Debate of the House, in

answer to his Majesty's Speech.]

Monday, December 20.

Mr Hampden reports, from the Committee, an Address in Answer to the King's Speech. (See it in the Journal.)

[Debate.]

Mr Vaughan.]- I have always accounted it good manners to acquiesce in the pleasure of this House, and now much more, having the concurrence of my Conscience. The Precedent has had good fuccess; and from the like cause I hope we shall have the same effects; for, without this Bill, we can have no possibility of quiet. They think now to puzzle us with our own integrity. Whether this Address have success or no, you have raised a great Monument of your worth to posterity. As for the Association, I cannot tell what that is; against Popery our Laws affociate us, and our hearts for the King. Though the Duke of York have ever so great Virtue, and endeavour, should he be King, to permit the Protestant Religion, yet we know where they are all locked up-There will be a perpetual division between the Head and the Members, and the Pope will make us Hewers of Wood and Drawers of Water, if the Duke be King. I think, the other things in this Answer to the King's Speech are not equally matched with this great thing of the Duke: Better things may be coupled with this Address, and of infinitely more moment. As for Money, we do expect protection from the King, and he fupport from us. The fame ill Arguments that were used

in the Long Parliament for Money, cannot hurt us now; we are a new Parliament, that live not upon what we give, nor our pay arifing from our Votes, as in the last Parliament. It is impossible that this Bill of Exclusion should pass, this Session—I have heard of a short Prorogation of the Parliament for that purpose, and that from this Place. But have we fat fo long as two months, with great expectation of the Nation upon us, and now must we conclude a Session, and be in the same condition we were in before, and far worse? Do we not place it in those hands who have been habituated to Prorogations? If once there be a Prorogation, you will fee the Duke in Whitehall, before you can get into your Seats at Westminster. You will lose by it the Bill of Banishment of the Papists, and that, in the Lords House, of banishing the Duke, &c; and will you by that show your Duty to the King? I come not here to speak in Masquerade. The case is now with the King, as it was betwixt Queen Elizabeth and Mary Queen of Scots. Her Council faw, that the Queen of Scots and the Papifts conspired the death of the Queen, and should the Queen have fallen by a stroke from the Queen of Scots, there was by Law an affurance of indemnity in defending their Religion, and therefore an Affociation. But at last they took off her head, without which an Affociation would have been of little fignification. Though the King have confidence in the innocence of the Duke in the Plot, &c. and fears him not, yet we ought not to hazard the King's life under fuch a temptation. Those of the Court have swallowed our Lives and Estates in contemplation, and will in the Succession; all goes through the Duke's hands, as well matters Ecclefiaftical as Civil, and he encroaches upon Royal Power. When this Answer is given to the King's Speech, fend up to the Lords, and defire their affiftance in the streight we are in, and I hope we shall have good fuccess. But if you are prorogued without doing any thing farther, I think that the Nation will be ruined, and vote "That you will give Money, if your Petitions may be granted."

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Sir William Jones. I concur with Vaughan in all the commendations he has given to the Bill of Exclusion; yet I am fo unhappy as not well to understand why, by what he has faid, viz. "We are to depart from the Bill itself, and not have it, then, without more dangers by Prorogation than without it:" And not without a Prorogation, "for that," he fays, "would be full of inconvenience for the loss of Bills depending, and all misfortunes upon us; and the Duke then will be here again." I lay that weight upon this Bill, that all time will be loft till we have it. Some Bills will be ready before a Prorogation, and some are sent up, &c. but if this should be a Prorogation, I think we may fit longer every day, and take more pains, and then we shall not lose the Bills depending. I wonder what inconvenience will follow, if the Bills be loft; they may be foon gone over again, and if we be so happy as to sit two or three days, only to finish what is before us, it will be fo far from inviting the Duke to return, that I believe he will not return at all. Vaughan fays, "That of Affociation, &c. is of little fignification." But I hope he does not intend to fit down with words—But you have described this Affociation, to what purpose you would have it. This is no new thing, for then there was an Affociation without a Law, and afterwards it was confirmed by a Law in Queen Elizabeth's time. have been told, and fomething was mentioned, "That things of a trivial nature were mingled with this great matter of the Duke, in the Answer, &c. as Judges and Justices of the Peace, &c." But I think the Judges so described is a great thing. Therefore, for security of our Properties, nothing can be more for our advantage. As for Justices of the Peace, King James magnified the Government by it, and took a resolution to have the like Government in Scotland. Judges go their Circuits but twice a year, but Justices keep the Peace of the County every day; and if they be not fuch men as give countenance to the Protestant Religion, you may lose it. I see that Vaughan thought well of the matter, and that may beget a long Prorogation, what he has

has moved. He spoke of the Bill of banishing the Papifts and the Duke; but fuch a Bill will ceafe when the King dies, and they will return with greater increase, and it is fo much lessening our security. I move, To

pass the Answer, &c."

Mr Vaughan.] The Gentlemen that penned the Anfwer have done it to the advantage of their own credit. But I am mifrecited; the Judges and Justices I think to be of moment, but not equal to that of the Exclufion. Who made that bargain of the Prorogation, we know, and in whose hand that is. The Bill of Banishment of the Papists and the Duke may have some security in it, but in the Prorogation, none.

The Answer, &c. passed as reported.

The Articles of Impeachment against Mr Seymour were read, and fent up to the Lords.

Tuesday, December 21.

[A Bill for uniting his Majesty's Protestant Subjects to the Church of England, was read a second time *.]

[Debate.]

Serjeant Maynard.] I would not let a man come in what Habit he will to the Church, that is in Orders, nor use what Prayer he lifts, no Liturgy, and every man to do what he lifts. I would not lay all things down, when you are about to reform fome.

Mr Finch.] In matter of fact, I shall acquaint you how this Bill stands. I would not suppose things in it, that are not. The Liturgy is not taken away, but only the "Affent and Confent, &c." which ceases two years hence; and the Liturgy remains in the fame condition as it is now, or will be in 1682: That of Ordination remains as it did before. The Oath of Church-wardens, &c. is understood "in licitis & bonestis," and if you take that Oath away, which there is no Law for, it is no

cember, when the close of the Session occasionally let off, only to make

^{*} This Bill was not introduced concluded that it was one of those till towards the latter end of De- Parliamentary Fireworks that are was in view. And hence it may be a noise and expire. Ralph.

hurt to the Church. Every man takes the Oaths of Allegiance and Supremacy, which is much better than the Subscription only to the Liturgy. The Act of Uniformity is established by Law, and what necessity is there of subscribing to it, when it is a Law? The thirty-sive Articles are to be subscribed to; Orders and Homilies are not taken away; only there is not an obligation to subscribe to the whole thirty-nine Articles. As for Habits, there is no danger that there should be none, or indecent, for still Ordination is from the Bishop; however, you may refer that to the consideration of the Committee.

Mr Powle.] I have been always of opinion, that Unity is better than Uniformity; and to have Protestants under one Bond, is worth more than any Ceremony; and therefore I am for it. This Bill of Comprehension supports the Church; for consider the number of Papists and Separatists; the Church is reduced to fo narrow a bottom that it cannot stand long; and those befriend the Church that would support it as well as they can, and would fail as well as they can betwixt two Rocks. Ever fince Queen Elizabeth's building up the Church, restraints have been put upon it; and now we are going to take them off. I will give you an account of fome things, how they came upon the Church. In Queen Elizabeth's time there was nothing fubscribed to but the Doctrines. Archbishop Whitgift brought in three Articles to be subscribed, one, the King's Supremacy, and the other two about Ceremonies; and for this there was no authority, but the Archbishop did it of himself. Then King James proceeded by Canons, in 1613, but I know no Authority in Law for them. The King's Ecclefiaftical Authority changed as his Temporal, but that unfortunately changed; and the King came in, and then the temper ran another way, and there were Acts of Uniformity raised to an higher pitch than before, and "Affent and Confent" were enjoined. I may obey what I think in some points may be mended, and therefore cannot give my Affent and Confent; and though

though I am a friend to our Liturgy, yet, I think, fome expressions in it may be mended; and though I join in it, yet I wish it were put under a better explanation. For that of Ceremonies, I am indifferent to give confent; but I fear, if some things established be taken away, that nothing will be put in the room of them. I am for establishing Episcopal Authority, so far as it is consistent with the Government of the State. As for the Oath of Canonical Obedience, I do not know whether taking that Oath away does not take away Canonical Subjection, as far as the Ecclefiaftical Laws do make-good that Authority. I am afraid we should leave the Government of the Church loofe. "The Affent and Confent, &c. ends in two years," it is faid; but I take that to be perpetual, though the Renunciation of the Covenants ends in that time. Persons admitted to Dignities and Benefices, I would not have them left at liberty to use, &c. I hope all these things will be provided for in the Bill.

Mr Finch.] I should be loth to say any thing here like artifice. I confess I was in an error as to "Assent and Consent," yet the use of the Liturgy remains in the

Church, if this Act does not pass.

Sir Francis Winnington.] Those who have written the sharpest against Dissenters agree, that they are the same in Doctrine with the Church: Now the Question is, Whether we shall unite them to us, who differ not from us in Doctrine? It will be for the benefit of the Papists to destroy us all. I never met with a Parson, whose Living was under a hundred pounds a year, but would let them in; but those of a thousand pounds a year, dignified men, are against it: They think the alms are better distributed. I observe, there are not above two in the House against this Bill. If you take away the Oath of Canonical Obedience, you take not away the Jurisdiction of the Bishop; he may be punished if he obey not in omnibus. But I hope that no man means Archbishop Laud's Canons, which were not established by Law. But as to the point of Pluralities, it is necessary

necessary to be thought of; but I fear it will stick so hard with the Lords, that it will clog this Bill. Let the Bill stand upon its own bottom for uniting Protestants. I could make it appear, that, for ten or twelve years last, all has been the product of Popish Councils: Therefore, without particular instructions to the Committee, you fee how the thing may be eafy. I will tell a story, which was in a Court at Westminster-Hall. There was a poor man excommunicated for not coming to Church for fome time; he was advised to reconcile himfelf to his Minister, who, the Judge said, was a moderate man. The Counsel challenged the Officer of the Register, how many Papists he had excommunicated? But it feemed, not one.

The Bill was committed *.

Sir George Treby. You have obtained Judgment against Lord Stafford from the Lords; there remains Justice to be done upon him by Execution. There is a Writ come to the hands of the Sheriffs of London, in the nature of an original Writ out of Chancery, figned "Finch, Chancellor," for Execution. (And reads the Writ, which see in Lord Stafford's Tryal.) This Writ does fomething shock the Sheriffs, and for your fakes as much as the Sheriffs, I move it. There is fome Question whether the issuing this Writ out of Chancery can be done in this course of Proceedings. This Writ is, as if it were a common Tryal of the Lords out of Parliament. Part of the Execution of the fentence is "Cutting off his head." Though the Judicature of this be not in this House, yet you are tender, whether, if the King and the Lords should dispense with part of the Execution, it will not be Error, and you as Appellants may claim your Right of the Execution. The Sheriffs leave it to you.

the Question, but afterwards drop-Principle which first made way for the Church. Ralph.

^{*} The Bill was committed on its admission; for though it was expedient to favour the Non-conformped, no doubt on the same political ists, it was not safe to wage war with

[It was adjourned to Thursday.]
[December 22, Fast-day. Dr Burnet preached.]

Thursday, December 23.

[Sir Richard Corbet reports the Resolves of the Committee appointed to examine the Proceedings of the Judges in West-minster-Hall,] touching the Discharge of the Grand Jury in the King's-Bench, (which see in the Journal.)

Sir Francis Winnington.] We demand Justice of the Judges; we are not precarious. It is a standing Rule of the King's-Bench, "That the Grand Jury of Middlesex is not discharged till the last day of the Term." One of the Articles against Archbishop Land, was for disfolving the Parliament of 1640, and therein is the word "traiterous." I know not what you will call this Crime in the Judges; I leave it to you. And whether you will apply your Vote to this particular. See the Vote.

It was moved to be added, "That this being done by the Judges without Precedent, &c." To which faid

Mr Hampden.] That will be a leffening of their Crimes. There are Precedents enough that the Judges

have subverted the Laws of England.

Mr Vaughan.] I move that these words may be added to the Question, "Thereby to introduce Popery." It has been long contended, whether Popery comes before Arbitrary Government, or Arbitrary Government before Popery; but now they are pari gradu—This has crept into the bowels of the Judges. To say we shall have no Indictments, is the same thing as to say, we shall have no Law at all; a kind of a Legislative Authority in the Judges. Pray stick to those words in the Question, "That this tends to the subversion of the Protestant Religion, and to introduce Popery."

Sir Francis Winnington.] The Judges of the King's Bench have made this Rule of Court, viz. "Ordinatum est, quod Liber, intitulat" "The Weekly Packet of Advice from Rome, or the History of Popery," non ulterius imprimatur vel publicetur per aliquam personam quamcumque. Per Cur." By this Rule, provisionally, the Judges make a Law for the whole Kingdom. Therefore I would have the Words added to the Question, "Assuming to themselves a Legislative Power, &c."

Mr Powle.] If you will put that into the Question, pray put in more. When no Information, Indictment, or other Process was before them, to make such a Rule.

is what never was done before.

Sir Francis Winnington.] At the time of making this Rule, there was an Indictment against Benjamin Harris depending in Court*. I would not give them that advantage.

Mr Vaughan.] Whether there was an Information depending at that time, or not, it is all one. Shall the Judges make a general Rule? It is an affumption of a

Power that they ought not to exercise.

Serjeant Maynard.] The Judges may make fuch a Rule,

whether there be an Information depending, or not.

Mr Hampden.] Sure Gentlemen do not consider what it is for a Judge to assume Arbitrary Power. By that he makes his Will a Law. The Words "illegal and arbitrary" comprehend all the rest you would have.

Sir Thomas Lee.] Subjects have, by Law, liberty to write, speak, or print; he may be indicted if he transgress, and it is at his peril, if he offend. But shall not a man speak unless he be licensed? So somebody might

do it, it feems, though unlawful.

Mr Boscawen.] I defire that you will consider whether you will proceed against all the Judges at a time, to make so great a noise; or whether you will begin with the most notorious.

^{*} For printing a Book, called "An Appeal from the Country to the City."

Sir Thomas Lee.] If I were affured you would have time, then you may proceed upon them, one by one; but the same Committee may draw up the Charge against them all, and it may be managed with the same Witnesses, and you may proceed with them as you have done with the Lords.

Sir Thomas Meres.] The beginning of this affair did arise from discharging of the Grand Jury. Sir Thomas Jones did it; it is his care, and his province. As to Judge Dolben, his name was never used by any of the Witnesses. If he suffer, it is for his silence. I know not how you can avoid putting the Question, but pray let it not be upon him; but hear a Report that is ready for you.

The Speaker.] It is a vain thing for one Judge to speak in the King's-Bench, when two are against a thing. In the Ship-Money case, Hutton and Crooke, though it was against their opinion, yet for conformity they subscribed it, and were not impeached.

Mr Colt.] He gave his consent, in every degree, to discharge the Grand Jury. He might have argued it, if he would.

Sir Robert Clayton.] Whilst Judge Dolben was Recorder of London, in the Common-Council, when the Plot broke first out, he carried himself very well; and I have loved him ever since for it. The worst thing I hear of him, is, that he had a hand in the whole matter. The Court of King's-Bench was at Scroggs's direction, and I think Scroggs had his Preferment, to be useful on such occasions.

Sir John Hotham.] If the fame things be against this Judge as against the others, I will not say any thing for him; but at York, upon the Tryal of a Priest, he did behave himself very well.

Sir Christopher Musgrave.] In the Northern Circuit, though I was not at York, I heard that his carriage was so good at the Tryal of those who were guilty of the Plot, that I hope he deserves your encouragement.

Sir Patience Ward, Lord Mayor.] At our Sessions at the Old Bailey, another Judge did screw himself into the Commission officiously, and came into the Court; where Judge Dolben was against bailing Mr Christian. And truly he has deported himself so well, that he deserves your favour.

Sir William Pulteney.] The Justices of the King's-Bench gave the Directions, and it belonged to Jones to discharge the Grand Jury. I have heard Justice Dolben say, that this was the only thing that troubled him in his

Life.

Sir Gilbert Gerrard.] Greater Zeal and Honour I never faw than from this Judge at York; and he gave discountenance to the Jury that behaved itself ill there.

No Question passed upon Mr Justice Dolben.

[Refolved, Nemine contradicente, That this House doth agree

with the Committee,

1. That the Discharging of the Grand Jury of the Hundred of Oswaldston, in the County of Middlesex, by the Court of King's-Bench, in Trinity Term last, before the last day of the Term, and before they had finished their Presentments, was arbitrary and illegal, destructive to public Justice, a manifest violation of the Oaths of the Judges of that Court, and a means to subvert the fundamental Laws of this Kingdom, and to introduce Popery.

2. That the Rule made by the Court of King's-Bench in Trinity Term last, against the printing of a Book, called, "The Weekly Packet of Advice from Rome," is illegal and arbitrary; thereby usurping to themselves Legislative Power, to the great discouragement of the Protestants, and for the coun-

tenancing of Popery.

3. That the Court of King's-Bench, in the Imposition of Fines on Offenders, of late years, hath acted arbitrarily, illegally, and partially; favouring Papists, and persons Popishly affected, and excessively oppressing his Majesty's Protestant Subjects.

4. That the refusing sufficient Bail, in those cases wherein the Persons committed were bailable by Law, was illegal, and

a high Breach of the Liberties of the Subject.

5. That the expressions in the Charge given by Baron Weston, (See p. 59.) were a scandal to the Reformation*, and tending to raise Discord between his Majesty and his Subjects, and to the sub-

[.] He inveighed against Farrell, Luther, Calvin, &c.

version of the ancient Constitution of Parliaments, and of the Government of this Kingdom.

6. That feveral Warrants issued by the King's Bench are arbi-

trary and illegal.

Refolved, Nemine contradicente, That Lord Chief Justice Scroggs, Mr Justice Jones, and Mr Baron Weston, be impeached upon the said Report, and the Resolutions of the House thereupon.

Ordered, That the Committee appointed to prepare an Impeachment against Lord Chief Justice North, do prepare Impeachments against the said Lord Chief Justice Scroggs, Mr Justice Jones, and Mr Baron Weston.]

Debate on the Warrant of Execution of Lord Stafford.

Serjeant Maynard.] I cannot find fault with the King's Mercy in remitting part of the sentence against this Lord; but this Question has arisen, I believe, that the Lords and we may be at difference upon it. Either the Papists hope that, by it, this Lord may be acquitted, or that we

may fo differ, that all business may be at a stand.

Sir William Jones. I differ from what has been faid: I think that the proposal of this matter from the Sheriffs does not deserve blame, but thanks, and that they did well to apply themselves to this House. I have considered of it, and I think there is no reason to go to the Lords about it; it will not prejudice us fo much as fome apprehend. The Impeachment is at our profecution, and the Judgment at our fuit. Death is the fubstance of the Judgment; the manner of it is but a circumstance. If a Nobleman be judged to be hanged for Felony, that he may be beheaded by the King's Warrant Lord Coke doubts; though the Judges argued that, in the case of Lord Castlehaven, who was condemned to be hanged for Buggery, and his Judgment was changed into beheading. The Judgment against a Woman, for High-Treason, is to be burnt, but we know frequently that they have been beheaded, as was Anne Bullen. I take it easy to show, that, if the substance be preserved, which is Death, the circumstances may be varied. No man can show me an example of a Nobleman that has been quartered for High-Treason: They have been only be-VOL. VIII.

headed. But now, what shall we do in this case? Shall we desire the Lords to do what was never done before? By nature, Englishmen are not so severe; as if the substance could not be performed without the circumstances. What is then to be done? Either Execution will be done by this Writ, or by Conference you will complain to the Lords, that Execution is not ordered according to Judgment, or that they have not done, in the Upper House, what was never done before. To satisfy the Sheriffs, I would pass a Vote, "That this House is content that Execution be done upon Lord Stafford, by severing his Head from his Body."

Sir Thomas Player. I defire that the Sheriffs, for ref-

pect to them, may be called in.

Resolved, That this House is content that the Sheriffs of London and Middlesex do execute William late Viscount Stafford, by severing his Head from his Body only.

The Lords fent down Mr Seymour's Answer to his Impeachment.

The Speaker.] I think this ought to have been delivered at a Conference; as the Amendments to the Bill of trying the Peerage ought to have been. I hope you will confider of it.

Sir Francis Winnington.] I do not know how long we are to sit, for no steps are made towards setting us right. I believe we are not to sit long. In the condition we are in, I would have the Committee public, that draws the Impeachment against the Judges; that the World may see our Reasons for what we do, as well as our Votes, and that we have Reason for what we do.

Colonel Titus. There can be nothing secret at a Committee. The Room is generally full of Strangers. And are we afraid it should be imparted to the People? I would have the World see what excellent Judges we have, and what fort of hands the People are in. They talk of our slying at all Great Men, as common traducers of the whole Government. Some may think that this is not to punish Malefactors, but to put ourselves in their Places; therefore, to prevent such resections, pray justify your Votes.

Mr Colt.] I am against printing. I would not print, till you impeach the Judges; they will, else, turn the

Evidence against them that have informed you.

Mr Love.] I desire that the Names of the Witnesses may be printed, for their Honour, that those poor men may be known to affert the Right of the Commons of England. Judge Pemberton held up his hands with admiration at the Proceedings at the King's-Bench*; and what became of him afterwards, you all know.

Mr Palmes.] I am afraid of the Precedent, if you publish your Evidence before you have drawn the Im-

peachment.

Sir John Hotbam.] By printing it, you intend to difperse it through the Nation. It must be paid for by the Post, and will be chargeable, therefore I hope you will take care it be printed in as little paper as may be.

Colonel Birch reports the Examination of the Complaint against Richard Thompson, Clerk, Minister in Bristol.

[Ordered, That the Report be read to-morrow morning.]

Friday, December 24.

Sir Richard Corbet reports the merits of the Election for the Borough of Bury St. Edmunds.

[Debate.]

Serjeant Maynard.] If this was an ancient Borough, and had power to fend Burgesses to Parliament, it cannot be restrained in it's Privileges by a subsequent Charter. Then the Question is this: Suppose they have not sent Burgesses for a hundred or two hundred years—There is mention of four Precepts in Edw. III's time, &c. Melcombe Regis, Dorchester, Amersham in Buckinghamshire, and other Places, sent no Burgesses to Parliament for some time. The intermission of sending was above sifty years. If you deny this, you will unburgess many Towns that now send, though formerly disused.

Mr Harbord.] I have fearched Records how this Borough came to be discontinued. The King formerly

^{*} In the Case of Harris.

thought himself too weak for the Barons and Churchmen, and that occasioned the increase of the number. Waltham and Glastonbury Abbeys had none, because sometimes they could not govern them. Several Abbeys have had Executio Brevium, but did not return Parliament-men. This Borough is of fixty years possession, and if you destroy this, you destroy your own Rights.

[Resolved, That Sir Thomas Hervey, Knight, and Thomas Fer-

myn, Esquire, are duly elected for the said Borough.]

The Report from the Committee, appointed to examine the Complaint against Mr Thompson, was read +.]

[Debate.]

Sir Robert Markham. I would not fend him to Rome, for fear that he is their Chaplain already, but I would banish him to Geneva; for he says, "They are worse than the Devil that are Presbyterians." Put him into

the Bill of Banishment of the Papists.

Sir Francis Winnington. I take this business to be of great concernment. When I speak against such men as these, I speak for the Church. Three things this Report runs upon. First, bold and impudent Resections on the King; and it is our Duty to take notice of fuch men. Next, I never heard any man fo confidently and rantingly affert Popery; and next, afferting of Arbitrary Power. He is a most admirable Preacher, and takes upon him to affert those things! There were many Witnesses heard—He is restless in and out of the Pulpit in impofing these Doctrines, and this magnifies his offence, that it was done in interval of Parliament, in the boldness

Charge against him were, "That in a Sermon preached at Briftol, on Jan. 30, 1679, he declared that the Prefbyterians were fuch persons that the very Devil blushed at them; and King, for supplying his necessities, to be the true Catholic Church," by Ship-money and Loan, which was his Right by Law, than to

+ The principal Heads of the raise Rebellion against him; and that the Presbyterians are worse, and far more intolerable, than either Priests or Jesuits: That he traduced King Henry VIII, Queen Elizabeth, the Reformation, the that the Villain Hampden grudged Parliament, &c. and approved of and made it more scruple of Conscience to give twenty shillings to the Church of Rome, which he affirmed

of the Papists. It is worthy your consideration what to do with this man. I have heard of a Precedent of fentencing such a Person to ride through the City with his face to the horse's tail. If you banish him, it is the way to make him a Cardinal; fuch Company as you intend in your Bill is a Preferment to him-Some men, we fee, will struggle hard to keep the Protestants from being united, and I must believe that, at the bottom, they love Popery better than the Protestant Religion. We may raise a dispute amongst the Lords—Though the man seem too little to impeach, yet his Crimes are great enough for the Commons of England to charge him upon; and let the Bishops see what kind of Cattle these are, that scandalize the Church. Therefore I would refolve upon fome Questions, viz. " That he has impudently scandalized his Majesty and the Protestant Religion;" and when you have put these to the Vote upon him, the best way is to make him exemplary. I was thinking of a short Bill, to put a Character of Disability upon him, for really there are fuch a multitude of people in the Plot (and that borders upon it) that you cannot well impeach him. Such fort of People as these absolutely endeayour to destroy the Doctrine of the Church, and to bring in Popery, and fuch as those that foment Diffentions amongst Protestants.

Serjeant Maynard. This Thompson is as naughty a man as can be; he has scandalized Religion, fallen upon the dead, that most excellent Princess Queen Elizabeth*, and scandalized the Protestants in the Pulpit, besides profecuting men for not coming to Church when the Churchdoors were shut. I wish you could punish him as he deferves. I think he that scandalized the Queen of Bobemia had Sentence, by Impeachment, to ride with his face to the horse's tail +. But I would not send him beyond fea, for there he will be favoured. I would fain fee how the Fathers of our Church will look upon this man.

^{*} Pointing to her Effigy, in St men, the most lewd and infamous Thomas's Church, Bristol, he said, of Women, &c."

That she was the worst of Wo- + See Vol. I. p. 153. Note.

I wonder that he has been fuffered in the Church fo long. I would impeach him to the Lords, and then fee whether you may mend their Judgment against him, in a Bill, which will be much more terrible.

Sir Thomas Lee.] It is necessary that you take notice of this matter. This spiritual Sword, which they all complain of, does the mischief. If the Bishop of the proper Diocese had done his Duty, he had saved you this Labour. Therefore I would pass a Vote, "That he is a scandal to his own Function, and that he has dishonoured the King;" and add what you will else to it.

Colonel Birch.] The great tendency of the Evidence was, "That he defamed and cried down the Reforma-

tion." Pray put that in its proper place.

Colonel Titus.] When one confiders what monstrous Conspiracies are against our Liberties, and to change the Government both of Church and State! There are a fort of Protestants, who make use of the Profession of the Protestant Religion, to injure the Protestant Religion. And where did this Mr Thompson do this, but in one of the most Capital Cities of the Kingdom? His punishment cannot be too great. He has not only defamed the King, but spoken reproachfully of the Protestant Religion, and of Queen Elizabeth. No one Protestant would do it, and he has cast the Plot upon the Protestants. Should you pass but a light Censure upon this man, he would laugh at you. Therefore be sure that in your Vote you hit upon every thing he is guilty of. Two or three Gentlemen may withdraw, and word the Question.

[A Bill for exempting his Majesty's Protestant Subjects, diffenting from the Church of England, from the Penalties of certain Laws, was read a second time.]

[Debate.]

Sir Thomas Meres.] This Bill repeals, or alters, a great many Laws; but as to the effect of the Bill, my inclination has gone along with the Bill many years. There was a Bill brought in formerly to this purpose, but not so full as this; but for that time it gave a great deal of satis-

fatisfaction. Some of this Bill is good and beneficial to be done. I defire to go on in the worship of God as I like. If you change Ceremonies as to Habit and Gefture, they are things indifferent; but if a Person be of invincible ignorance, though of Conscience, I would not hurt that man. The Oath of Allegiance and Supremacy I would have taken by fuch as come in to the Church, and the Test against Popery-I would not have it give offence in the way, when the end is good. There are a moderate Party of the Church of England, and not a lordly. They that do exceed the Liturgy are Non-conformists, as well as they that come short. I do not doubt but, when this Bill is paffed, most of the Diffenters will come in to the Church with that moderate Party, especially seeing that it is their interest: They will gain them by preaching and moderation.

Colonel Birch.] I would have fomething amended in this Bill. As this Bill is penned, the Quakers must bring two persons to swear that they are not Papists (when they refuse the Oaths) but Dissenting Protestants. I cannot, for my part, believe they are so, and they cannot bring people to swear it; therefore I would have them named "Quakers" in the Bill, and not "Dissenting Protestants."

Sir Christopher Musgrave. This Bill interferes with your Bill " for uniting Protestant Dissenters." This Bill feems as if every one might do what feems good in his own eyes, and does not agree with the Title nor Defign of it. The words "Diffenting from the Protestant Religion" feem to license Quakers, who are no Protestants, and give Toleration of a Religion that we do not know. Will you affociate these men that are not Protestants? Will they affift you against the Papists? They will not fight, nor fwear as Evidence, nor be of Juries. They will be of no advantage to the public Defence, and are a fort of People that will subvert the very foundation of Government. You have great fecurity in Juries, and these are a fort of men that will not be of them. There ought to be three Witnesses to a Will, and P 4 fhould fhould one of them happen to be a Quaker, good-bye to your Will! I would have no Instruction to the Committee

about Quakers.

Sir William Jones.] I defire to answer some things that fell from Musgrave. I take it, this Bill does not interfere with the former. That opens the door to spiritual Promotions to Diffenters, as well as others, under fuch and fuch qualifications. This goes not fo high. Such as are moderate in their defires, only, to be quiet. When we consider that it is impossible to deal with them by force, but by civil treatment they may be wrought upon: and no doubt but the Papists have offered them larger Terms than this; and if they are refused some liberty now, the Papilts hopes will be more upon this fort of People, though I believe always they were groundless. But do they defire to be admitted to be qualified, either for the Church or Cathedral?—They are to pay Tythes. and, during their meetings, the doors are not to be shur. If they say any thing against the Government, they forfeit the favour of this Act. But it is faid, "That the Quakers are not Christians, they will not take Oaths"-I will not speak in their justification, but I hope, in time, they will see their error. But do you put them at ease fully. If they will not serve on Juries, they will be amerced, and if they will not fwear, they will be fined by the Court. I think there have been some Votes already, "That the Laws against the Popish Recusants ought not to touch them." If you have fecurity, their doors being open, and these men think themselves better used, than if they were under the Papists, it cannot hurt the Protestant Religion. But it is said, "They will not fight." But they may fight with their purses, and they believe they may fight against the Papists. In Josephus's History, the Fews would not fight against the Romans on the Sabbath-day, but they foon found their fault, and did. Other things the Committee may take care of.

Mr Love.] I did speak with some of the Quakers at the Door. I said to them, "How can you expect, when you will not engage to affist the King in your Per-

fons, to have Benefits from the King?" Says one, "We had like not long fince to be robbed, and we fought floutly, and fo we will do against the Papists." A Friend of mine abroad had the curiofity to fee the Convents beyond sea of the English Jesuits; where they fell into discourse, and the Fathers fell foul upon Archbishop Laud, "That he was the greatest Enemy they had in the World, for he had done more in a few years to bring in Popery than they could do in an age. Our Principle (faid they) is to divide you, and to make Protestants fall upon one another." I had the Honour to fit here in the Long Parliament, and it was then the Wisdom of the House to see whether we were all Protestants, by ordering all to receive the Sacrament. I could not *, and disobeyed the Order, and they named me for one that did not; but there were many pieces of bread thrown under the Table not received. Said a Gentleman, "I am afraid he has some Popish Principles; he has been long beyond fea." Sir Thomas Clifford fell upon me then. Who made the long Declaration against the Bill of Conventicles, but Clifford, Strickland, and Swale +? (I speak this knowingly.) Said they, "Do you not fee yourselves undone? You are torn in pieces by the Church of England; you can be no worse amongst the Papists." In Coleman's Letters, you may remember the Project, when the Papifts got the upper hand, of letting loofe all the Laws against the Protestant Diffenters, and repealing those against the Papists, &c. and you know, it was brought into the Long Parliament, " That all the Estraits against the Papists were not above three pounds, and those against Protestant Differers ten thousand pounds." I had then fuch an apprehension, that, if the House gave up those Laws against the Papists, and if we should have a Popish King, the Plague of Plagues would be upon this Nation. I hope we shall now take all Diffenters in, to fave the Nation, with heart, hand, and shoulder, to unite against Popery. Let the House make it their Interest to

Reing a Dissenter. + All three Papists.

bring all men in. If the Ship finks, who will take care of his Cabbin? I defire you will inftruct your Committee, that, if the Law paffes at all, it may answer your end, and that no man, under pretence of Religion, may be exempted from chargeable Offices, &c.

[The Bill was ordered to be committed.]

The Vote against Mr Thompson was then brought in, [and

agreed to, as follows:

Resolved, Nemine contradicente, That Richard Thompson, Clerk, hath publickly defamed his facred Majesty, preached Sedition, vilified the Reformation, promoted Popery, by afferting Popish Principles, decrying the Popish Plot, and turning the same upon the Protestants, and endeavoured to subvert the Liberty and Property of the Subject, and the Rights and Privileges of Parliament, and that he is a scandal and reproach to his Function.]

Sir William Jones.] You have made a just Vote, but if you do no more, he will come off too lightly. You may trust him now with this Vote in any Judicature; but I would stop the mouths of his fellows, and in the face of all the World, I would publish the Evidence against him, and let the Church-men see what fort of sons they have. They who think him too little for Impeachment, think him too big for a Bill; but, to prepare the Lords and all men for his Sentence, I would impeach him.

Colonel Titus.] No man thinks that this Thompson deferves punishment, and a severe one, more than I do, but I am at a stand what that shall be. You are moved for "Banishment with the most considerable Papists." I do think him a Papist, and much more because he calls himself a Protestant. I do remember several Persons you have impeached, an Earl into a Duke*, and an Earl almost into a Marquess +, and some into being public Ministers. The Effects have been like Thunder upon Mushrooms; it does but make them grow, not blast them. Dr Maynwaring was impeached by the Commons,

Lauderdale. + Halifax. He was soon after so created.

and was brought to the Bar on his Knees in the Lords House, and he there recanted what he had written and preached. He was Dr Maynwaring before you impeached him, and was Lord Bishop of St. David's after. Some have moved, "That this Thompson should ride with his face to the horse's tail;" but that would be something severe to one of his Coat; but seeing he has forgot his Coat all his life, the Commons may forget it for one day. I would impeach him, that the Bishops may fee what their fons have done: Hac est doctrina filii vestri. They have so countenanced this Doctrine, and have been fo far from punishing him, that they have preferred him; and therefore they are thought, by ill People, great favourers of this man. Therefore I would impeach him before the Lords.

Sir William Jones. I cannot tell when his Impeachment will have an end, whether ever, or no; therefore I would publish what is against him, as a warning to other

Church-men, and in Justification of yourselves.

Sir Francis Winnington.] I look upon this Charge against Thompson as a national business, and to be part of the Plot; and fuch things as these are fit to be known to the World, that they may fee what is libelled upon the King.

Mr Harbord. Some of the Clergy are so afraid that we should unite, that they are almost Papists themselves; and as for the Church of England that have endeavoured to asperse us, let the World see what fort of Cattle they

breed up.

[Resolved, That the said Richard Thompson be impeached, upon the faid Report and Resolutions of the House: And a Committee was appointed to prepare the Impeachment *.

Ordered, That the faid Report, and Resolve of the House thereupon, be forthwith printed. The House then adjourned to]

* It does not appear that this rious at Court; for, not long af-Impeachment was ever perfected; ter, this very Thompson was reand what was criminal in the fight warded with the Deanry of Briftot.

of the Commons, was held merito- Ralph.

Thursday, December 30. On Mr Sheridan's Habeas Corpus *.

Mr Boscawen. Mr Sheridan stands committed, as a Judgment of the House, for Breach of Privilege. It feems to me, that his Commitment does run on the hinge of an Act of Court in a Criminal Cause, which we may suppose in Execution, where a Habeas Corpus does not lie, and he is not bailable, and they will not difcharge him in a Court of Criminal Causes. I think his Commitment stands good, and you are to consider the

Privilege of the House of Commons.

The Speaker.] Give me leave to state the matter, The thing, in fact, stands thus. Sheridan and Day were committed by your Order the ninth of December; they were brought to the Bar the fame day +, and ordered to continue in Custody during the pleasure of the House, and no Person to be admitted to come to him unless it were with necessaries. Then that Order was mitigated, and you ordered him to be taken into Custody. you ordered a Committee to examine him and Wilson. The Act directs, "That the Judges, within fuch a time, grant a Habeas Corpus, when defired, and they are required to bail where the Act gives that liberty." Now the Question is, Whether a Habeas Corpus lies in case of any of your Commitments, the Parliament fitting? (And be reads the Att.) In the Act here is nothing relates to Parliament-Commitments. The "Head-Court" is the King's-Bench, and this feems not to relate to the Parliament. This is a Commitment of Parliament, and if fo. the Judges cannot grant a Habeas Corpus.

Serjeant Maynard. You are going upon a fudden to give an Opinion in a thing not thought of before. As I take it, his Habeas Corpus is granted: Now what is to be

* There was a bold forward man, House, and slipt out of the way; Sheridan, a Native of Ireland, whom but Baron Weston had the Courage + See p. 119, &c.

the Commons committed, and he to grant it. Burnet. moved for his Habeas Corpus. Some of the Judges were afraid of the

done in this case? I desire not to be concluded in any thing I shall now say, but I will tell you my apprehension; Where shall he go to be bailed, but to this House? Your remedy for Breach of your Privilege is Commitment, and no Action can be brought against either the Lords or Commons. When you commit a man, you do not always express the Cause; if the Judges bail him, he is gone, and there is an end of him. I would have this matter let alone till to-morrow.

Serjeant Stringer.] This is a matter of great concern. I would confider whether a Judge can deny a Habeas Corpus. By the Act, the Jailor is to pay the Penalty of five hundred pounds upon Affidavit "That he is refused the Copy of his Commitment."—So far a Judge may fafely go. But the great Point is, Whether the Judge can discharge him. If so, farewell all the Privileges of the Commons! When the matter comes to a Habeas Corpus, the Judges may be informed how he stands committed. It is said, "That this Sheridan is a second Coleman," and, if so, let him be hanged as he was. I would take time to consider this, and I believe the Opinion of this House

will go a great way with the Judges.

Sir William Jones.] This matter is of great concernment; it concerns the Privileges of both Houses, and next, the liberty of the Subject; and I would not have you do any thing in it hastily; but to appoint a Committee to confider it, will feem to make the thing too difficult; but yet you are not ready to come to a Resolution I must deny "that the Judge must grant a Habeas Corpus to this man." This is not a case at Common-Law, but you fee that fometimes in discretion formerly they required a Copy of the Commitment. But by this Act, the Judges grant a Habeas Corpus upon a Copy of the Commitment. In this case, the Judge is in no danger upon refusing the Habeas Corpus. The Serjeant says, "Sheridan sent to him for a Copy of his Commitment," and the Serjeant has not granted it to him; so the Habeas Corpus is not yet granted. If you pleafe, please, I would not commit this, but adjourn the consideration of it.

Sir Francis Winnington.] All I move for is this, "That no Memorial nor Entry be made upon your Books for the present;" but upon the whole frame of the Act, I see no Habeas Corpus lies upon a Commitment of Parliament.

[No Entry was made in the Journal, and] it was adjourned to to-morrow.

Sir Francis Winnington.] You have been moved for "a Bill against Popish Pensioners," and I desire you would punish the old Pensioners, and prevent new ones; especially since the Report has been, that men are to have Places; which is a scandal in time of Parliament. I would have no man have a Place, whilst he is a Member of Parliament, without acquainting the House before of it.

Mr Harbord.] So many artifices are used to asperse your Members, against the public good, that I move that no person may have any Place during the Parliament without leave of the House, or else that he be incapable of being

a Parliament-man if he accept of it.

Colonel Titus. As I came to the House this morning, I heard myfelf to be a great man, and that I had a Place at Court, and had fo many Compliments upon being a great Minister, that I began to flatter myself that I was really fo; but now I plainly discover that I have no such Place at all. After you have so proceeded against Sir Robert Peyton for his truckling for a Place, should I accept of a Pension, or a Place, it would be no wonder if I should be brought upon my knees, as he was. I never heard that man faid to have kept a Fort, for it was never affaulted. A woman with an ill face is feldom tempted. I protest, I never heard of any Place till I came hither this morning. I met with another Report, " That I had been with the Dutchess of Portsmouth." If any man can prove, whilst I was of the Bed-Chamber to his Majesty, that ever I spoke a word to her, I will lie under all your Accusations. I know

I know not a better design, nor more dextrous, to carry on Popery, than this of raising jealousies. Let me repeat that part of the Litany, "From envy, hatred, and malice, Good Lord, deliver us." If my own actions will not justify me, my words never will. I think you have been regularly moved, "That the Papers about the Pensioners in Sir Stephen Fox's hands may be reviewed." If any man have no impediment for Preferment, let him take it, but not be a Parliament-man. If a man think himself qualified for a Place, let him leave the Parliament, and accept of the Place. Lead us not into temptation, we pray daily. The House will always have power over their Members, and I move that they may have no employment during Parliament.

Mr Vaughan.] There was something of this nature offered at in the Long Parliament, but it fell. Now I think this Parliament consists of good men, able to maintain themselves. Prevent such Ulcers in your own Bowels. That Bill then offered, "That upon acceptation of any such Office, a new Writ should issue out, to chuse another Person." I am not for Gentlemen purg-

ing themselves. I believe them honest men.

Colonel Titus.] I have been congratulated for a great Place, and I humbly defire Vaughan's leave to clear my-felf. I say that some of us were accused of Places, but

not that Vaughan did.

Colonel Birch.] I have a Place, and I had it before the Long Parliament was called, (I was one of the fecluded Members) and fo I am before-hand. Though Vaughan has not gone much abroad, yet it is the talk of the Town. I have fat in that Corner amongst those Gentlemen who have been talked of for Places, and had there been provender amongst them, I should have been crumping with them. But now there are no such Places or bargain made, to the shame of them that reported it. Some corrupt Judges formerly had their skins stuffed with hay, for an example; I desire those Gentlemen-Pensioners, if there be any, may be stuffed with straw, and I am content. If they received Pensions in the Long Parliament, I have

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I have heard that all done in fuch a Parliament is mill

and void; that it has been fo formerly.

Mr Garroway. I think, a Vote in this case will not do your business, nor answer your end. Therefore I am for a Bill.

Mr Hampden.] I am for doing this Bill effectually. Perhaps I wished it some years ago. I am now for a Bill. but I would have a Vote first, and thus far a Vote will be obligatory to men of worth and honour: If any man will fay that he is not obliged by that Vote, let him. Pass such a Vote first, " That during Parliament we may have no Places nor Pensions to the scandal of the House."

Sir William Jones.] I like both the Questions, both for a Vote, and a Bill, but I am forry that you have no means to bring things to light about the Pensioners. Mr Bertie is gone abroad, and I am afraid will not return till this Parliament be up. When men do not act for fuch Places, in time the World will be undeceived, and let that pass. "Places of Profit" will be a word too general in your Question; they may have Places in Corporations; but I would add to the Vote, " Not to exclude your Members from the Magistracy, as Lord Mayor or Sheriff of London, &c." It may be convenient to have them Members of Parliament. I would have them only excluded Offices from Court, and Places from his Majesty.

Colonel Titus. Suppose his Majesty should have occasion to send Ambassadors, or Admirals, it may be those are the ablest men for it. Suppose we should have a War, will you not let your Members fight for you? The way to hinder a thing, is to clog it. Therefore pray

pass the Vote as it is moved.

Sir Thomas Lee. I I had an Office conferred upon me in Parliament (Commissioner-Admiral) and got out of it out of Parliament: My Country habitation was of more fatisfaction to me. No man knows what a man will be, but himself. I think you may leave out the words, "Without leave of the House." You will have no advantage by it.

Sir

Sir Francis Winnington.] What I moved this day, was not to vindicate the Reputation of your Members, but to prevent Reflections without. I believe the People will be fatisfied with any of your Members having Places whom the House thinks well of.

Sir William Jones.] I would not have a Question pass that cannot be well defended without doors. Shall the World say, "You will make a Vote (be the occasion ever so great, or the man ever so sit) that he must not accept of an Office?" You will hardly find arguments against the unreasonableness of it. If you leave it in the power of your Member to put himself out of Office, then it is another thing. This Parliament is not like to sit so long as to send Members Ambassadors out of it; besides, it would seem a very strange thing, that the House should ever mistrust itself so far, or has any Gentleman so much authority as to persuade the House to it? I have put myself, and will, out of the possibility of it, and I desire the words may stand in the Ouestion.

Refolved, Nemine contradicente, That no Member of this House shall accept of any Office, or Place of Profit, from the Crown, without the leave of this House; or any promise of any such Office, or Place of Profit, during such time as he shall continue a Member of this House; [and that all Offenders herein shall be expelled this House.]

Friday, December 31:

On the General Naturalization of all Alien Protestants, and allowing them liberty to exercise their Trades in all Corporations.

[Debate.]

Mr Powle.] There is Jus Suffragii, and Jus Civitatis. The Bellum sociale came by such a Naturalization. The Crown may fall to the Distast, and England may be filled with Foreigners, to our destruction. In King James's time, an union of Scotland of the same nature was opposed.

Sir George Downing.] Spain is the richest Country, and the poorest Country; they have all the Money, and Yol. VIII.

no Money; we and Holland have it all in Manufactures, and they have only the honour of being the Carriers. France draws more thither by Linnen-cloth, than we in all our Trade. It was the care of our Ancestors to encourage Manufactures, for before we had only the honour of shipping off the Wool; the Manufacture was in Foreigners, and the Manufacture was double the price of the Wool; and your Drapery was brought in by Foreigners, and Silk Manufacture. Invite Foreigners in, and do that with them that is fober and moderate, and you will have effect, if you give them liberty to work out of Corporations: But if they shall have equal liberty with those within, (a Gentleman may give three or four hundred pounds with a fon,) and they to have the same liberty with natives, I am against that, and that they shall not be, nor chuse Officers. I would only have the Bill enable them to buy land and exercise their trades.

Mr Boscawen.] I think it is not for the advantage of London that they should come into Westminster, and the same to other Corporations. But in answer to Powle, the Question is, Whether this Bill is good for England? Therefore a limitation for France for bringing in Protestants, and I suppose the French live under such perfecution, that they will endeavour to keep out that Government they have so smarted under, should the Crown sall to a Distast. I would make the Bill temporary, for seven years only.

Sir John Knight.] There are several Laws, that an Englishman shall not trade, unless he has served seven years. Take care that this Bill of Naturalization give them not more Privilege than the King's Subjects.

[A Bill was ordered to be brought in.]

[A Bill for the relief of the Subject against arbitrary Fines was read a second time.]

Serjeant Maynard.] The Fines imposed by Magna Charta, and at Common Law, are with a falvo contenemento. Ransom is another thing—If the Judges exceed,

reed, you may call them to account. A Person that fuborned Witnesses was fined four hundred pounds, and the value of the Estate forsworn was thirty thousand pounds. Are all offences alike? There must be a difference in the Fines. For Trespass, &c. a man was fined forty shillings. To affault a man, that is another manner of Crime. I would not have all manner of Crimes fined alike; still there is a consideration of all circumstances. Next thing in the Bill, " That a Jury shall enquire into the Fine;" and a Jury that never heard the Fine, when the Judges that hear the circumstances of the Offence. and the Jury that never heard of the Evidence with the circumstances—And here, the Judges that never were present at the hearing the Cause, must affert the Fine (it being "all the Judges.") But this is not all; a Writ must come out to enquire what the Estate is of the Person fined, and they must assess a Fine, and undo all that the Court has done, and this enquiry is to be by a Jury, fuch as the Under-Sheriff shall think fit—Yorkshire, or Devonshire—and a Jury must enquire, that knows nothing of the ability of the man. I think this Bill amounts to an indemnity of all villainies. There are great complaints of the Judges not doing their Duties to fine—I have feen the Judges mightily affected with a Crime, but it has died off; it may be, the Offender has been turned over the Bar (as Reading)—and a Country Jury must enquire—and so you will never have any punishment of Offenders.

Mr Boscawen.] I hoped, that as Maynard found fault with the Bill, so he would have showed you some remedy. A Countryman of mine, an Attorney, [MrBrowne] but for sending a Book to Bombay (in the East-Indies) was fined a thousand Marks, and was not worth a thousand Shillings. When the Judges become as great Malesactors as other men, there must be some remedy. If it be referred to a Jury, the Evidence may be heard on both sides. If the Judges had fined men according to Magna Charta, with salvo contenements, there had been no need of this Bill. I

Q. 2

hope that Maynard will attend the House, and help mend this Bill.

Mr Foley.] Men have been fined, not according to their Crimes, but their Principles: Sometimes because they have been Protestants. This Bill does say, "That it is in the power of the Judges to fine still, but not to fine what they please." The rest of the Judges of the King's-Bench may inform themselves of the Fine by the Lord Chief Justice, and the other Judges may inform themselves as they do. If you can help excessive Fines

any other way than by this Bill, I am content.

Sir William Jones. Maynard has objected against this Bill, "That Fines for all Offences will be equal;" but no Fine is to be above an hundred pounds till all the Judges meet, and so there will be no danger of equality of Fines; for either the Offender has ability to pay the Fine, or he has not. But he fays, "What! shall the Judges fine, who heard not the Cause?" Suppose the Cause be trved in the Circuit, and there may be but one Judge that has heard the Cause-It is not often that Fines exceed a hundred pounds, and the Judges may meet-Scarce three Causes in a Term require it. But after all this solemnity, the Jury examine the actions of the Judges-The Fine may be unequal, and they may moderate the Fine more than they ought to do; that may be mended; but pray take care, upon the Commitment of the Bill, that the Jury be of better Quality, and may know the ability of the Person. We have had excessive Fines imposed by the Judges. I would commit the Bill.

Sir Francis Winnington.] There is a mystery in the matter, how these Fines, imposed by the Judges, come to be so exorbitant. The Courtiers have begged these Fines, and then they are set high by the Judges; a shrewd instance in a Fine lately set upon a man for words at the Election at Eye in Suffolk, and Sir Charles Gaudy begged the Fine. If you commit the Bill, you may alter all but the tile and purport (so I have heard.) I would have it considered, that a good Bill in general may be framed to

check

check these exorbitances in the Fines imposed by the

Judges.

Mr Powle.] The scope of this Bill is, that a man shall not be fined, by the Judges, more than he is worth. Mr Arnold had his throat cut, and was desperately wounded in other places *. The Assassinant was fined forty pounds, and the man not worth thirty-five. These things usually come from great men, who hire such villains to do the act, and will pay their Fine for them. It was said anciently, "It were better to live in a City where nothing was lawful, than where every thing was lawful." I take it to be the wisdom of our Government to have some fining discretional. If you take away that power to punish such enormous Crimes, there will be no safety in the streets. Amerciaments are with salvo contenemento, but Fine is sometimes Ransom, and must be high.

[The Bill was ordered to be committed.]

On Mr Sheridan's Habeas Corpus +.

Serjeant Maynard.] I am clearly of opinion that this is a Cause out of the Statute of Habeas Corpus. That Law was never intended otherwise than for Commitment from inferior Courts, and not Parliament. All Bail is in order to Tryal; when an Act of Parliament says "A lower Court," it never intends a higher. A Commitment is not only a Judgment of this House, but an Execution; and though the Statute does not mention the Parliament, other Courts shall not grant it in Judgment and Execution—There can be no Tryal of one committed from this House, but in this Place, and this Act is not intended for Commitments from hence.

Sir Francis Winnington.] It is plain the Parliament is not to be included by this Act; for the Parliament was informed, that there was a Habeas Corpus to remove a man from the Tower, and they sent him to Jersey or Guernsey. So it plainly shows that it was for the growing evils of removing men out of the reach of

^{*} See Vol. VII. p. 365. + This Debate is not mentioned in the Journal.

Habeas Corpus, that this Bill was formerly brought in and that it was never intended against Commitments of the House of Commons. A man is committed here in Execution, and it was never intended that injustice should flow from this House. As Mr Sheridan has repented himself of bringing this, I could wish he would of his other crimes also.

Sir Thomas Lee.] Consider the advantage of putting this Question, moved from the Bar by Jones, viz. "That no Habeas Corpus does lie during the sitting of this House." This Court is a superior Court, and no inferior Jurisdiction. I do not see why you should make any Vote in this case. The Judge has the Law before him, and your Vote cannot alter it. You may be prejudiced by superior your Vote to the interpretation and scanning of

the Judges.

Sir William Pulteney.] In this case, a Vote is necessary, else the Judges will not know what they ought to do, and what not. You have voted, "That the Judges cannot grant a Habeas Corpus against the common Privileges of this House." I would have the Judges take notice of it, and therefore I am for a Vote. I do not know that this House has power to commit, but in case of Breach of Privilege, and I would so restrain it in the Vote.

Mr Paul Foley.] I have looked over the Act, and am of opinion that a Habeas Corpus does not lie in this case, and may be refused in case it should be required by this Act. A Habeas Corpus was never granted upon a Commitment by Parliament formerly; no Precedent can be shown of it. You commit for contempt, and it must be in such cases where the party is bailable. If you put a Question, I would be loth to have our Privileges (which is our only power) to be lodged in Commitments upon Impeachments, whereas we have power to send for all people, Commoners.

The Speaker. This case is particular as to Mr Sheridan, and is out of the power of the Act of Habeas Corpus; and why

why will you make any Question upon it, upon general Commitments of the House?

Colonel Birch made a Motion, " That Mr Thompson, the Minister, of Bristol, might have his liberty upon bail, &c."

The Speaker. The Articles of Impeachment against Mr Seymour were formed and brought in, and then you ordered the Commitment of him; you keep this man in custody, till the Articles are completed and reduced to certainty, and then will be the proper time to let him loofe to make his defence. But what can he defend against, till he knows the Articles against him?

Colonel Titus. I wonder at Birch, who made this Motion for Thompson, whereas he knows it must not arise from the House as a voluntary Act, till he desires it; therefore I would have him remain in Custody, till he

petitions.

Serjeant Maynard.] If any man should be committed, and you should give bail, and the Party does not defire it, it would be strange. Suppose Sheridan should bring an Action against the Judge, if your Commitment be for Breach of Privilege, no inferior Court will judge of it; but if the Commitment be not for Breach of Privilege, you may mend it.

Mr Harbard. I appeal to you, if ever you discharge a man that does not acknowlege the Jurisdiction of the House, and acknowlege his fault? Till he has done so,

let him remain in custody.

The Speaker.] If you should do as Maynard moves, your Order for Breach of Privilege is, as if after Commitment they should mend the Record in Westminster-Hall. Sheridan was in custody before the Paper that reflected upon your Members, and broke your Privileges, was found. So the first Order for Commitment was upon another occasion.

Mr Paul Foley.] Though Sheridan was fent for in custody to the Bar, yet the continuation of him in custody

was for Breach of Privilege.

Sir Thomas Lee.] I would have it considered how you will mend a Commitment afterwards; if he has a Copy of his Commitment, general, and now comes an Amendment of the Commitment, for Breach of Privilege, a month after? The general Debate ran, "That he held a dangerous correspondence with the Duke of York, and was a second Coleman." Gentlemen were sent to search his Papers, and found a Paper in his closet not printed nor published. Pray let the thing stand upon its own foundation, without mending it.

Sir Francis Winnington.] The famous case of Lord Shaftsbury, when upon a Commitment by the Lords he was brought by Habeas Corpus to the King's-Bench Bar, there was no Return made, and he was discharged sedente Parliamento. If a Rule of Court be ill-entered, I appeal to you, if it be not mended every day in an inferior

Court?

Mr Powle. Whoever, in this Place, speaks for limiting your Power is not fo favourably heard, as he that speaks to enlarge it. State super vias antiquas. I am afraid we are about removing the ancient Land-marks, which may return to their old bounds again. Your Power is part of the Judicial, and part of the Legislative Authority, and it is but part only. Anciently the Judicial Power of Parliament was exercised by King, Lords, and Commons; but for some ages past, we, and the Lords, by tacit confent, have had a separate Jurisdiction in that point, and they punish for their Breaches of Privilege, and we for This case of Sheridan, I confess, goes beyond your ancient Privilege; they took no Jurisdiction upon themfelves, but either did fend to the Lords if the thing deferved an Impeachment, or dismissed it to the Law in the lower Courts at Westminster. I do not take the words in the Paper, found in Sheridan's study, to be a Breach of Privilege against your Members, he having not published the Paper. Here is neither actual force against your Members, nor Suits of Law. If the Courts below cannot reform your Error, it is fit you

you should do it yourselves. If this man be not in Custody for Breach of Privilege, I would release him, and all that are so committed, and reform your own Error.

No Vote passed in it, and the Debate dropped.
[Adjourned to]

Monday, January 3.

A Message from the Lords, "That they have received a Petition from Mr Seymour, wherein he desires a Day may be appointed for his speedy Tryal; that their Lordships, finding no Issue by replication of the Commons, think fit to give this House notice thereof."

[Debate.]

Sir Francis Winnington.] This to be proposed in a Message! There is something of art in the reslection upon the House. We have had Adjournments, and have endeavoured, several Days, that this business might come to issue, and now, here is a Message from the Lords, &c. Methinks, it might have been very easy for Mr Seymour to have sent to you hither to hasten his Tryal. I only speak that this matter is something curious, and very fine, yet, for the Honour of the House, pray proceed in it.

[Mr Seymour's Answer to the Articles of Impeachment was

Ordered, That a Committee be appointed to prepare Evidence against Mr Seymour, and manage the same at his Tryal.]

Sir Richard Corbet reports the Articles of Impeachment against Lord Chief Justice Scroggs*.

[Debate.]

Sir Francis Winnington.] I shall not press for security in matter of Life, but if you go not according to Precedents, will you not lose your Authority? But if it be, as fones says, "That there is no Treason but by 25 Edw. III. &c." we are in a miserable condition. As we, on the one hand, will not go farther than former

^{*} See them at large in the Journal.

Parliaments have gone, fo I would not go lower in this

Impeachment in the matter of Treason.

Sir Thomas Lee.] It will be of dangerous confequence to call things by higher names than you can expect Judgment of from the Lords. There is no necessity to bring this upon constructive Treason. I would have the Debate adjourned to a fuller House.

Mr Hampden.] If the learned Judges of the Land will venture to overturn the Government (it is imputed to fome fort of People that they would change the Government to a Republic) the Government may be

changed another way by the Judges.

The Debate was adjourned to Wednesday, [in a full House.]

Tuesday, January 4.

The following Message from the King was delivered by Sir William Temple *

"CHARLES R.

"His Majesty received the Address of this House with all the disposition they could wish, to comply with their reasonable defires: But, upon perufing it, he is forry to fee their thoughts fo wholly fixed upon the Bill of Exclusion, as to determine, that all other remedies for the suppressing of Popery will be inessectual:

or Council, was to carry the King's last Answer to the Commons, containing his resolutions never to confent to the Exclusion of the Duke; which Secretary Jenkins had been charged with, the night before at Council; but he was thought too . unacceptable to the House, it seems, for a Message that was like to be fo; and next morning the King would have had Sir Robert Carr, or Mr Godolphin, have carried it, but they both excused themselves. Up-

on which the King fent for me.

I told his Majesty, "I did not very well understand why a thing agreed upon laft night at the Council. Table should be altered in his Chamber; but that I was very willing, however, to obey him, and Memoirs.

* The last thing I did in House the rather upon others having excused themselves; and to show his Majesty, that I intended to play no popular games." Upon which I took the Paper, and told the King, "That I was very fenfible how much of his confidence I formerly had, and how much I had loft, without knowing the occasion; or else I might have had part in the consulting this change of what was last night resolved, as well as in executing it; and I would confess to his Majesty, that I had not so good a stomach in business, as to be content only with swallowing what other people had chewed." Upon which I went away, and carried my Message to the House, which was received just as I expected. Temple's

His Majery is confirmed in his opinion against that Bill, by the Judgment of the House of Lords, who rejected it: He therefore thinks there remains nothing more for him to say, in Answer to the Address of this House, but to recommend to them the consideration of all other means for the preservation of the Protestant Religion; in which they have no reason to doubt of his concurrence, whenever they shall be presented to him in a Parliamentary way; and that they would consider the present State of the Kingdom, as well as the condition of Christendom, in such a manner as may enable him to preserve Tangier, and secure his Alliances abroad, and the Peace and Settlement at home."

[Debate]

Mr Hampden.] This Day is ordered for calling over the House, which pray proceed to do, and I hope Gentlemen will attend, that we may be a full House.

Sir Francis Winnington.] I fecond the Motion for calling the House. It is my opinion that all those Gentlemen that have absented themselves all this Session of Parliament, are not true to their Country, and I hope, before this Day go over your head, you will put a Character upon Defaulters, and that you will consider the King's Message, which so much concerns both our Souls and Bodies.

Colonel Titus.] I hope you will consider the absent Members; we want the courage of those absent. I would have none slip their necks out of the collar. I would have them go as far as we do, and on those that are absent I would lay the character they deserve.

Lord Russel.] If the House be inclined to put off the consideration of the King's Message, then pray call the House, and I think you may go on upon it. Now those who have advised the King to this Message, I suppose, are making their court to the Duke. I am forry the King is inclined more to Popish Councils than to us. I would set a brand upon them.

Sir Henry Capel.] It would be best for us to give our opinion of our difference from the Lords in the Bill of Exclusion, &c. in full House. It is strange to me, the Industry, Pains, and Charge Gentlemen have returned

hither

hither at in their Elections, and yet to fee them not fit. I befeech you, call the House, and if they can give no good account of their absence, and have no reasonable

excuse, put a severe censure upon them.

Sir John Hotham.] I am for calling the House. For Gentlemen to be absent now, it is wonderful to me! Not to say any thing of punishment, but when we see how busy Counsellors are to put such Answers upon the best of Princes, we ought to lay hands and heads together. Nothing will secure us but standing to this Bill of Exclusion, which is both for our Bodies and Souls, the Glory of our King, and the King of Kings. Let us, in a full House, stand together, and I hope we shall make an Association.

Sir Thomas Player. I am for calling the House, and for fome intimation, when the House is called, to keep us together. Never any Nation in the World that had a being, was reduced to fo miferable a flate as we are. We have fat now three months, and by what we have done, we have given new and fresh provocation to our Enemies. We have passed excellent Votes, and gone as far as we can to infure the Protestant Religion, but that has produced rage and revenge from the Papists. We have proceeded in Courts of Justice, where fair Tryals have been of great Conspirators, and one has been lately brought to the Block, and so we have farther exasperated those who lie in wait for our ruin. When you have been fuffered to do this for three months, you are left without any fecurity. Those things proposed for your fecurity have been rejected. I have read That one man died for the People, but never that three Kingdoms must die for one When you please to enter into Debate of the King's Meffage, I shall fay more.

Mr Boscawen.] I like very well to have a full House to-day; and that Gentlemen, when they are called, and have answered to their names, may not be gone, I would shut the Doors, and let none go out without

leave.

Mr Booth.] If you would debate the King's Meffage, I would then lock the Doors; but I defire rather a farther time to confider of it, for it is faving or losing the Nation; therefore I move you to appoint tomorrow.

Sir Francis Russel.] Whenever you appoint a day for it, I would have the Doors shut, and that no man may

go out without leave of the House.

[The House, according to Order, proceeded to the calling over the Members thereof, and the Defaulters, to the number of seventeen, were ordered into Custody of the Serjeant at Arms.]

[His Majesty's Message was ordered into Consideration on

Friday.]

Wednesday, January 5.

The Articles of Impeachment against Lord Chief Justice

Scroggs were read.

Article 1. "That he, then being Chief Justice of the Court of King's-Bench, hath traiterously and wickedly endeavoured to subvert the sundamental Laws, and the established Religion and Government of the Kingdom of England, and, instead thereof, to introduce Popery, and Arbitrary and Tyrannical Government against Law; which he has declared by divers traiterous and wicked Words, Opinions, Judgments, Practices, and Actions."

[Debate.]

Sir Francis Winnington.] It is faid, by Maynard, "That this Article is general." All I can fay is, that it is a fub-frantial Article, "To fubvert the fundamental Laws of England, and to introduce Popery and Arbitrary Government by Words, Actions, and Opinions." That Article was a great Crime, when that learned Serjeant was con-

cerned in the Impeachment of Lord Strafford.

Sir John Knight.] That Article was then of great importance. In Lord Clarendon's Impeachment, Lord Strafford's case was cited; but there they proceeded by Act of Parliament, and within two or three days passed it, with a Clause of not being hereafter drawn into example. I would have the Statute I Mary read, which declares "That nothing shall be construed Treason but what is already so by 25 Edw. III.—No otherwise declared, but

by Act of Parliament." I would not, in behalf of the

Subject, make new Treafons.

Serjeant Maynard.] What Knight fays of 25 Edw. III. is very true, but by a distinction it must go. The Question moved is, "Whether any punishment of any offence can be by the name of Treason in Parliament?" No man can deny it. But enormous offences may be impeached by the name of Treason, notwithstanding the Statutes. There was a Treason at Common Law before the Statute of 25 Edw. III, and the Judges took upon them to determine Treason. But, by that Statute, the Judgment of Treason, in doubtful cases, is expressly referved to Parliament, amongst other things. "But because men cannot think what fort of men may be Judges, they shall not proceed in a doubtful case, but shall acquaint the Parliament, which is not to have an Act made, but by Judgment in Parliament to declare it Treason." What Treason is, no man can define, nor describe---In that Statute it is not; but Treafons are enumerated; "only those, and those cases; if any other cases come before them, they shall not proceed upon them, but shall acquaint the Parliament. If an offence be committed, the Parliament shall judge whether it deserves the punishment of Treason." What if, as in our case, in interval of Parliament, there should be a contrivance to deftroy all the Lords and Commons; is that comparable to the Treason of coining a shilling? After the Statute 25 Edw. III, many Acts were made Treafons on particular occasions, as in Hen. VI, Hen. VIII, Edw. I Mary, " None shall be judged Treason, but what is fo by 25 Edw. III, in reference to the Courts below." If an Act of Parliament does not name the King, it does not bind him. And will any man think that the Lords will'let their throats lie open to be cut, and not judge fuch a Conspiracy to be Treason? Whatever offence deferves the punishment of a Traytor, the Parliament may impeach, &c. and the Lords judge accordingly. Before the Statute 25 Edw. III, a Lord did raise eight hundred men, &c. and it was judged but a Riot. Where Where the offence is a public destruction to the Nation. as all offences to the King, as Coining, &c. it is Treafon; but in a Riot, the intention and scope is on particular persons, and was not judged Treason in the levying eight hundred men, &c. To destroy the inclosure of particular Persons, is not Treason; but to go in great numbers to destroy all inclosures in general, is Treason; for it differs in the scope and intention of the Party. In this case before you, here is a design and intention to destroy the Nation, and our Religion, and People combine to form Companies and raise Arms, and intend to destroy the Lords and Commons. Think you, that this cannot be judged Treason? Now comes the Statute, and fays, " If fuch an offence, as men cannot define, should happen, the Judges are to acquaint the Parliament with it." And an Act of Parliament does not bind the Parliament unless the Parliament be named. General words shall never take away the Right of the Nation, in the Judgment of Lords and Commons. The words about Hen. VIII, and the taking his Wife again, &c. were as strange a thing as we can imagine— Since 25 Edw. III, in Rich. II's time, some that betrayed a Castle in France, by Judgment of Parliament. without more ado, were beheaded; and that is a different Judgment from the Law in case of Treason. What the Act 25 Edw. III. does reserve for Parliament, shall not be judged in any inferior Court. I Mary-Not to define, but enumerate what the Judges shall judge. In Rich. II's time, a Judgment was declared in Parliament against Tresillian—The Statute does not define beforehand, but when an offence does fall, then to judge it. Sometimes the Parliament have judged hanging and drawing, and not quartering nor embowelling, and fometimes beheading only. In Treason, the forfeiture is to the King; in Felony, to the Lord of the Manor. This case we now debate is no case enumerated in 25 Edw. III. But take that power away of declaring Treason in Parliament, and you may have all your throats cut. (He spoke low, not well to be beard.)

Sir John Otway.] No doubt nor question but an of fence shall be Treason, if King, Lords, and Commons declare it so, fince that Statute 25 Edw. III. This Article against Scroggs is very uncertain. Has he broken the fundamental Laws of the Nation? Wherein? It is a hard thing for a man to fall under the displeasure of the House of Commons. No Subject is too big for them. It had been a great fatisfaction for Scroggs to have acknowleged the offence here, and explained himself; and it has been frequently done here by some Lords; as the Duke of Buckingham, and Lord Arlington, who explained their actions, &c. * and upon fatisfaction, the House has forborne to impeach. Mr Thompson of Bristol was heard at the Committee; fo was Sir John Davis of Ireland. Lord Chief Justice Keeling was heard in the House, upon complaints against him, and the matter went no farther +. I would have Scroggs fent for, to know what Answer he can make for himself. Let him have the same Justice others have had.

Sir Thomas Lee. I am one of those who think that by that Statute the Parliament is not so bound up, that; when fuch enormous offences are committed, by Judgment of Parliament they may be made Treason, and no doubt of it for the fafety of the Government. But now as to this particular person, in what degree will the Commons make their complaint to expect Judgment from the Lords? As the Articles are framed, you must change your Title; but whether it is prudence to dress your Articles in these terms, is the Question. It was an odd fort of practice of the Judges in the case of Sir Samuel Barnardiston, &c. to construe" maliciously, &c." but pepper and vinegar-fauce. They told the Jury, "Find you but the Fact, and we shall lay the Crime in Law." I often have taken this for a great mischief in the City Juries, where great Fines have been imposed. There can be no higher Crimes than Scroggs is accused of; but as to the word "traiterous," that he did traiterously discharge the Grand

^{*} See Vol. II. p. 250 and 275. + See Vol. I. p. 67:

Tury, &c. Still I take before me what the proof will be; for the Court will judge according to that, and not your Title of the Impeachment. It may be, the Judges did this to aggrandize themselves. I would consider, whether to fay "an universal subversion of the Laws," to that one particular action of discharging the Jury. you expect no bigger Judgment from the Lords than the Misdemeanor, consider of it. The rest of the Judges are equally guilty in this matter; it was the intention of all the four Judges-Call it by a lower name of offence; you cannot have a higher Judgment from the Lords than you complain of. If the Parliament happen to rife before the matter be judged, the Impeachment remains upon Record, and may be proceeded in, the next Parliament. I have stated the matter, in every part, plainly, not in favour of Scroggs; that, if any thing should fall out, you may not be unprepared. Another thing may fall out; if the charge be Treason, the Bishops are not to be Judges of it, and so you may have the better effect of it. In the body of the Articles is the very Evidence, and it may be of great inconvenience to show the Lords the nature of the Crimes from the Evidence itself. If the Lords happen to fay, This is but a fingle Act; they may make a question whether to commit him for Treason?—And whether the Lords be free to make this a declaratory Treason? Let us take care, not to put the Lords too often to renew their Orders, as in Lord Danby's case. If you intend to print this, I suppose you intend it not a Cenfure by Act of Parliament. If the Charge must be as you lay it, all Acts, for the future, of the Judges, will be the fame in what may follow hereafter. I would be better informed by learned men, if this should fall out, to consider what difficulties you will be upon. In Lord Strafford's case, because such Judgments should not for the future be given by the Judges, therefore the Commons proceeded by Bill of Attainder, and not by Judgment.

Sir Francis Winnington.] To the first Point, "Whether the declaratory Power of Treason be in the Parliament?" Although doubted the other day by Jones, yet if you consider the Arguments in Lord Danby's case, the House was delivered of that difficulty. Taking that Point for granted, if this Article be true, now we are come to a mature Debate, read the Articles one by one. As to the fairness of the thing, when enormous Crimes are committed, it is our duty to take care to question them.

Sir Thomas Meres.] When I heard this Article read, I did think it was an Article by itself; and now I perceive that the other Articles must explain this. But if the Treasons be in the following Articles, I would see them. It is not for the interest of the Commons to multiply Treasons; but still to consider whether this be Treason at Common Law; for when we have declared it Treason, the Judges at Westminster-Hall must judge so. In the case of Lord Clarendon's Impeachment, the Lords did object, "That our Charge was general Treason;" therefore I desire to express particular matter in this Charge. Pray be wary in that Point of too

many declaratory Treasons.

Mr Finch. What I shall say in this case shall be in difcharge of my duty to my Country, and I should be forry any man should think me an Advocate for Scroggs, for I think him not fit for his Place, nor ever was, and I think much less now. This Crime he stands accused of, in its own nature, is not capital, yet when he committed it, he knew it to be a fault, but not capital; fo that I would not have Blood, for a Crime ex post facto. This being faid by way of Preliminary, I shall say something to the declaratory Power in the Parliament. Suppose you had fuch a Power, yet no Crime can be declared Treafon, but by King, Lords, and Commons; you go on a little too fast, first to declare it before you impeach him. But what I shall chiefly insist upon is, the declaratory Power in Parliament itself. What is said by Maynard is a doctrine

a doctrine so mischievous, that this age, or the next, may rueit. When you have once declared the Fact Treafon, the Judges may judge that Fact as Treason for the future, unless it be with a Ne trabatur in exemplum—Put the case of a forcible entry, a much greater crime than a robbery on the highway; for that puts a man in fright, and takes away his Land as well as his Money. Before the Statute 25 Edw. III, there were great factions in the Kingdom, and there usually followed revenge; and as the Parliament became more on one fide than the other, they were made inftruments of their rage; it may be, such times may come again; and then the Judges must punish upon the like occasion. Men cannot suppose Parliaments in being, nor good Judges, and what a miferable cafe will it be; when upon fuch Judgments no remedy can be had! By the Statute 25 Edw. III, in High-Treason the Forfeiture is to the King, as well of Lands held of other Lords; as of the King—Another fort; in Petty Treasons the Forfeiture of those Crimes is to the Lord of the Fee-And because there may be many such like Treasons, the Proceedings shall be stopped, till the Parliament declare whether the Crime be Treason or Felony. The intent of that Act was, that the mean Lords should not lose their Rights and Forfeiture, and should be given to the King, and Proceedings should be stopped till the Treason was declared. I would have a Precedent showed me, when ever any offence was declared Treason in Parliament, that was not Felony before; whether ever they did declare or enact a man out of his life? By Bill you have mature deliberation; the Lords and the King consider of it; but here by a Declaration of Treason, you read it but once, and in a hafty Proceeding declare a man a Traytor, which is worse than enacting a man out of his life. I do think this man (Scroggs) is not fit for his Place, and has done Crimes fit for great punishing. Consider that all the ill Precedents have been the refult of mens prejudices in odious cases. When we suffer ourselves to be transported, we may proceed well in this case, but ill for ourselves and our posterity.

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The Speaker read the Declaratory Clause in 25 Edw. III. Sir Francis Winnington. The Gentleman who spoke last, calls me up. I did think that point of Declaratory Treason inherent in Parliament. What I say shall not relate to the Person of Scroggs, but I shall go upon the warrantable steps of our Ancestors, in what they have done to lay the foundation of Right,—His Argument (to my understanding) though the Power of declaratory Treason, &c. be agreed by the House, yet his Argument does go directly against declaratory Treason. To be better understood, I shall state the Law how it stands upon that Statute 25 Edw. III, and the Precedents. By the Statute there is no necessity that the Offence, before you declare it Treason, should be Felony before. I Hen. IV. Chap. 20. 1 Edw. VI. Chap. 3. 1 Mary, Chap. 1. By reason of the disorders of the Kingdom in the Barons Wars, the Parliament did reduce all Treafons to the Statute 25 Edw. III. I observe that, since that time, there should be no other Treasons but what should be adjudged and agreed in Parliament; by which I do plainly observe, that, to that time, there were other Treasons than in that Statute are enumerated; and that Statute takes them not away, but forbids the Judges to meddle with them in Judgment. As this case is, by search of Precedents, there was never, or very rarely, any Judgment in Parliament which the Judges in Westminster-Hall, or Commissioners of Over and Terminer, could try below; all was upon declaratory Treason-But says Finch, " By 25 Edw. III, the Parliament did not declare a Treason, unless it was Felony at Common-Law." But to deflower the Queen, and feveral other instances, as the bringing fix-pence false money into England, was declared Treason by that Statute, and was not Felony before. In the case of Richard Weston, who delivered a Castle at Berwick, and Commines at Arles, both were judged Treason. Parliam. Roll. Numb. 5. I would know whether that was Felony at Common-Law? It was only Breach of Trust against the Government. The Offence of Tresilian and Belknap was no Felony before,

before. But as Maynard faid, "That what is committed to the destruction of the Government, deserves as much Punishment as those Treasons in the Statute;" but to subvert the Government, that is a Parliament Treason. But 11 Rich. II, there was a distinction of Treasons, which were not by that Statute. For that Question put to the Judges (Tresilian and Belknap) belonged to the Parliament, and not to them, to decide— And they are not made but declared Treasons at Common-Law, which were not Felonies before. The main objection is agreed, as to the declaratory Power of Treason in Parliament. But it is urged by Finch, "If you come and call this Treason, the Judges will call it Treason; and will you give them that Power?" But the declaratory Power is to be argued for every special Case; and if so, it is not an Argument to support declaratory Power in the Judges, but to prevent it. In the case of Empson and Dudley, the Judges could not proceed upon those Indictments 1 Hen VIII. They came to Parliament, and the History says, they were attainted in Parliament; Lord Herbert, in his History, fays, "For adhering to the King's Enemies." But the Journal of the Lords happened to be inspected in King James's time, when the Lords intended to give a Judgment, but they found it only Misdemeanor—The Attorney-General brought in the Indictment of Empson and Dudley, and the Lords took notice of it, and called it "Proditorie," though it was but a bare encroachment. In the forty Articles against Sir John Finch, and the Articles against Justice Berkeley, they were indicted of Treason, in the General Articles, as in this case; they refused a Lawyer to plead before them in the case of Ship-money, and they resused a Jury to enquire into the Misdemeanor of the spiritual Courts; and all the Articles faid " Proditorie:" For here is a thing we must confider: The Chancellor is Keeper of the King's Conscience, and the Judges of the King's Oath, to do equal Justice, secundum Legem Terræ, and when they impose Arbitrary Power, it is not as in the case of Trespass or Felony, but that is to subvert the Government. R 3 Cafe Case of Justice Thorpe, 23 Edw. I. Sacramentum Domini Regis et suum maliciose, falso, et rebelliter falsificavit. So we must judge things according to reason. This man was supposed to be learned and virtuous. He has the keeping of the King's Oath, and he has betrayed it; Thorpe did fo, and was hanged. I am not now to make a Declamation against Scroggs, but for my Country. In the Mirror of Justice, Fo. 135. three of a Jury acquitted a man, and nine found him guilty; a Judge put out three, and put in three who found it; and the man was hanged, and the Judge was hanged for it. If not checked in the career, a man will tell us when we shall have Justice, and when we shall have none; and he certainly deserves the censure of Treason. "Great Officers have much to lofe, and it is an awe upon them," Finch faid; but I am more afraid of an arbitrary Judge, than of the Lords and five hundred Commons Judgment. A man will be content to be hanged when the Parliament fays he is naught. (The House laughed.) He would be ashamed to live; he would have little comfort to live, especially in his own Country, where the Parliament shall think him a Traytor. In Husband's Collections of the Transactions of 1641, &c. the Attorney-General exhibits Articles of Treason against the five Members, for doing their duty in Parliament, viz. "That they had endeavoured to alienate the affections of the People against the King." It is not faid, "To alienate the affections of the King from the People, when they cannot have Justice"—Those who were for Ship-money, were for that to be Treason, "To alienate the affections of the People, &c." "Subverting the fundamental Laws" was as general an Article then, as this is now. Now the Question is, if any thing be unanswered-But it may be faid, "But will you let the Judges declare it Treason in their Judgments, when the Parliament has declared it Treason?" Certainly there is no danger at all in that. In Lord Strafford's Case, by the Ne trabatur in exemplum, people thought it was never to be done again-The Judges may take the Indictment

Indictment in a doubtful Treason, but must bring it to the Parliament—All the mischief is a Bill of Attainder, and a Ne trabatur, &c. If great offences as these escape without such Judgment, how shall we come at other great Men that shall offend, &c.? If this comes to the Lords, in their Court, to judge, they will give a Judgment suitable to the Fact; our calling it Treason will not make it so—An Englishman ought to be content with that Judgment-But the Question is, Whether the Lords will commit Scroggs upon this Impeachment? I had rather such a man was tied up, than let loofe. The Commitment of Lord Danby was by folemn Entry in the Lords Journal; and why should we suppose a difference with the Lords about his Commitment? When a Rule is fettled in their Journal, when the Lords shall, upon examining all due circumstances, find the Charge not to be Treason, we must be content. The Judges, by thus discharging Juries, take upon them a Legislative Authority, and power to muzzle men, and few up their mouths against the Laws; and shall not the Parliament deal with them? The Juries were discharged before they made their Presentments. Shall they tell us we shall have no Law? I would know, whether all the former offences men have been judged upon in Parliament do come up to this? Having faid this of the Power in Parliament of declaratory Treason, the Point is well fettled, not to be shaken. Less Crimes than these were formerly called Treason. Let us not shrink nor be afraid in this; we have Precedents on our fides. I have no prejudice against the Gentleman, but pray let the Articles país.

Serjeant Maynard.] What you have been told by a Gentleman of 11 Rich. II, is very particular, and very observable. "The Commons pray, that those who surrendered the Castles, &c. may be put to answer to the Articles thereupon." Richard Weston delivered the Castle at Berwick to the King's Enemies, when he had Victual enough and Munition to have held it out. He had Judgment in Parliament, to be hanged and drawn for de-

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livering that Caftle, but embowelling was no part of the Sentence. Commines, for delivering the Castle at Arles; without leave of the King, he went away from keeping the Castle: Ogle defended the place—He was judged to death because he left the Castle. One was beheaded, the other was drawn and hanged, and yet the Charge is not "Proditorie," but by his default they left the Castles, and were to answer it in Parliament; and they were punished as by award of the Seignors and Barons, and had Judgment of Treason; so that here is Judgment of Treason in one case of Felony. In the other, 25 Edw. III, we had much from the Civil Law of Crimen lasa majestatis, et Crimen perduellionis; the one was an ordinary Judgment, the other in Campo Martio, to be judged by Senate. So that when a particular Case comes before the Parliament, then it is fit to be judged. But in our time, when men come to destroy Religion and the whole Law !-I only speak this now, that we may not be deprived of this Iudgment upon a greater occasion.

Mr Finch.] I would know, Whether the delivery of a Castle was not Felony before that Judgment against Weston, &c.? It must have been tryed by the Lord Constable, or Lord Marshal, or in Parliament. I would know, Whether the Lords can alter the Judgment of High-Treason into another Punishment? As for Rich. II, I would not have Precedents urged of that unquiet time. If the Offence was Treason before at Common-Law, it is not necessary to be Felony before—The Indictment of Empson and Dudley was not "Proditorie," but by an additional Article in Parliament it was, " For the adhering to the King's Enemies," and that was Treafon. Lord Keeper Finch's Crimes were not greater than Lord Strafford's, and yet an Act of Parliament was made for that—I think it a hard case to enact a man out of his Life. If every erroneous Judgment given by a Chancellor should make a Capital Offence, and every erroneous Rule in the other Courts of Westminster (that never was, nor ever ought to be High-Treason,) they sit there at the

peril of their ignorance.

Mr Powle. It is refolved, on all hands, that the declaratory Power of Treason remains in Parliament; but it is objected, "That it was never declared Treason but what was Felony at Common-Law." The word "Felony" there imports no more than a great and enormous Crime. In a Judgment of Maim, it is expressed felonice mayemavit. A great and enormous Crime is Felony. But I shall speak to what Finch objected, "That it must be Felony before it can be judged Treason in Parliament." The case of Thorpe's Indictment was upon the Statute 25 Edw. III. I shall not much rely upon that, nor upon that Precedent of Weston and Commines. I take it, to deliver up the King's Castles or Fortresses, whilst they are tenable, is aiding and adhering to the King's Enemies. In that of 11 Rich. II, four or five Judges were impeached for figning an extrajudicial Opinion against the Parliament. No man could fay that was Felony. As for the objection against "the unquiet times of Rich. II, and Precedents not to be taken, &c." we must take Precedents where we can have them, and I take them always to be unfortunate times when there is occasion of fuch Precedents. I take all those Precedents of 11 Rich. II. to be legal Precedents, and not to be excepted against. In 17 or 18 Rich. II, Sir Thomas Talbot conspired against the Life of the King's two Uncles, and that was not Felony, and yet in that Parliament it was adjudged Treason, and not Felony. Sir Thomas Hackly, a Prieft, proffered to the Commons a restraint of the excess of the King's House; the King took it as derogatory, &c. judged—The case of the Earl of Northumberland. 5 Hen. IV. He had given Liveries, and had great Retainers in the North; the Parliament judged it only Trespass, and not Treason; it came to a Dispute whether it was Treason or Felony, and it was judged Trespass. The feveral Judgments against Empson and Dudley, &c. -The oppressive Proceedings of the Court of Wardsand the word " Proditorie" is so-and the Lords did judge it -But if we may believe Lord Herbert, in his History of Henry VIII, the Charge of Empson and Dudley was brought brought into Parliament by Bill against them, and it was rejected, as not being well formed, but when mended it never passed. The Bill is extant of their restoration in blood, and it makes no mention of their being judged in Parliament, but they were attainted by course of Common-Law, at Guild-ball in London, and at Northampton, Dudley. As to the business now before you, I never heard but that the subverting the fundamental Laws was "Proditorie" in an Impeachment. This is spoken of Scroggs as a small offence, and a single Act, and therefore a hard Case; but we are beholden to the shortness of his Reign in the King's-Bench, for no more. The offence of Tresilian was but a single Act, and Ship-money but a fingle Act, and Riots, as Maynard faid. But to destroy the whole Government-The discharge of the Grand Jury, as if with intention to fave all the Papists from Conviction, is not this, for Judges to make Laws, as in the Case of forbidding Printing, &c? And a general Warrant to feize Persons and Goods by Messengers, is not this a subversion of the Government? I believe it was done with that intent. If Scroggs be not a good Lawyer, he ought to be, and must answer for his fault of ignorance of the Law, as well as the rest of his Charge. You cannot in this go less than the word "traiterous;" else it is cafting dirt upon former Impeachments.

Mr Finch.] I am no Advocate for Scroggs, much less for his Crimes. I only said "We ought to be cautious how we construe Treason in Parliament." If every illegal act be Treason, we are in an ill case. As for the Case cited of the Earl of Northumberland, it was plain Treason, and the Lords interposed for mercy to the King. As for Hacksy's Case, it was repealed; and for Talbot's Case, that was declared Treason by the Lords alone, if you will allow that for a Precedent.

[Refolved, Nem. con. That Lord Chief Justice Scroggs be impeached upon all the Articles, and that Lord Cavendish do carry up the said Articles to the Lords.]

Thursday, January 6.

[Colonel Birch reports the following Message from the Lords, on the Informations relating to the Popish Plot in Ireland:]

Refolved, by the Lords Spiritual and Temporal, &c. That they do declare, that they are fully fatisfied that there now is, and for divers years last past there hath been, a horrid and treafonable Plot and Conspiracy, contrived and carried on by those of the Popish Religion in Ireland, for massacring the English, and subverting the Protestant Religion, and the ancient established Government of that Kingdom;" [to which their Lordships defire the concurrence of this House.]

Sir William Jones. Here are two Witnesses against a Lord who fits in the King's Council (Anglesea.) Dr Oates's Evidence is confirmed, and that passage of the "Black Bills out of Spain" explained. Peace was made with France in 1678; we Country Gentlemen understood not the reason. At that time the King of France was to come over into Ireland, according to Dr Oates's Testimony-Peace was to be made with the Emperor, if a Popish Successor-Had he been a Protestant, you had not heard of the Plot, nor had you heard of a Plot formerly in Ireland, nor a Massacre, had there not been a Popish Queen. But in what condition should we have been, if the French had landed, and the Papists rifen here? For satisfaction of the Nation, pray let this Information be printed, that the Nation may confider to defend themselves; if we be fo fecure as not to do it! I would have Lord Tyrone impeached to-morrow, and the rather, should this Lord get out of the Gate-house, and go into Ireland; you see how he has been favoured there; and it is strange that a Great Lord (Anglesea) should be about the King, in Parliament and in Council, when you have two Witnesses against him. As I would agree with the Lords in their Vote as to the Plot and Massacre in Ireland; so I would move the Lords to agree with you, "That all this is occafioned from the hopes of the Papifts from a Popifh Succeffor." had the Victory over the Emperor

Sir Henry Capel. I close with this Motion. In the Long Parliament we heard a great noise of 1641, if any Enquiries were made into Miscarriages. I have reason to know 1641: (His father, Lord Capel, suffered.) A Parliament met in 1640, and the Massacre was in 41, countenanced by Papists in the Court; and now you have 41 out and explained. It is far from me to justify the Mifcarriages of that time to the King's Death; there were provocations on each fide; hot things were done then, and those now about the King would be very glad we should do hot things to be sent home, or to set us upon little things to divert us from doing greater; and I hope we shall avoid heats amongst ourselves to discredit us. I am glad to find that it is not the persons, but things, that are of weight in this House. But I stand amazed that a Privy Counsellor holds the Seal, and is still a Privy Counfellor, who has fuch Informations against him. I hope, (as it has been moved) you will take that matter into confideration, and that you will confider of an Impeachment against Lord Tyrone too. I will not mention the Plot in England; that is smiled at by some still, but it is plain there was a Plot in Ireland, and in this Information, here is a Priest and a Peer, a Privy Counfellor, a Peer, and the Duke (with that expression) fully confenting. I am in amaze at this! I move that you will pass a Vote, "That you do agree with the Lords in adding the words, "the hopes of a Popish Successor to be the Grounds of all this."

Serjeant Maynard.] Shall we be led like an Ox to the Slaughter, and a Fool to the Stocks, and not apprehend our danger? All the discoveries of the Plot in England and Ireland have been from the hand of God, from perfons that were of that Conspiracy, and the same persons in the same way were used in Ireland as in England. To intimidate the Witnesses, one was murdered, another assistance, into France; and Oates tells us, in their Army, when they had the Victory over the Emperor's, what Joy

there

there was. Can we believe but they who have so embrued their hands formerly in Blood, have still the same design? It is a strange thing for the Duke to think that the coming in of the French would establish him. I fear that there is an infatuation upon us. God has discovered this Conspiracy, and we shut our Eyes, and the blind lead the blind, and both will fall into the Ditch. I agree with what has been moved, to agree with the Lords with that Addition.

Mr Hampden. You have had many Motions made from this Bar. The Question is, how far we shall concur with the Lords in their Vote? The Lords are well fatisfied that there is a Plot both in England and Ireland. and I am glad they are; and a great many Clergy, who, out of the Excess of Charity, could not believe the Popish Plot, I hope will now the learned Prelates do so. Concur with the Temporal Lords, and, as Dr Burnet faid, in his Sermon *, "We may profecute this Plot with that decency and humanity it requires." You fee what it is; all has arisen from the hopes and encouragement of a Person I am unwilling to name (the Duke.) Dr Oates's Information is all of a piece. You may remember a Letter from Richard Talbot to Coleman in 1678: It was wondered it had no answer in four days; at last the mystery came out. Talbot was in Cheshire all that time, and Coleman understood all those mysteries. The Blank which the Lords have left in their Vote, to be filled up by the Commons, will make it entire. As for what may be added about Lord Tyrone, you may try him here. Now the Question is, Whether you will make England and Ireland all of a piece in the same Vote? And, if you please, you may add, "That the Duke's being a Papist, and the hopes of his coming fuch to the Crown, has been the occasion of the Plot."

Sir Francis Winnington.] I shall only put you in mind of the words of a dying man in Ireland. The Priest told him, " If he confessed any thing, he was damned,"

Preached before the House on the Fast-day, Dec. 22.

The Plot is now fpread into Great Britain. I was attending in Council, when Dr Oates told them, " That the Plot was laid in England, Scotland, and Ireland, &c." and all his Information has been very well confirmed fince, and some Lords then present, no friends to Magna Charta, believed it, and held up their hands at it. The Lives of men are precious, and Religion is dear to them. and if there be fuch Counfellors, who would destroy the King and the Government, and advise the King to break his word at Breda, they will be French Slaves rather than English Subjects. I remember the War with the Dutch, and the taking of the Smyrna Fleet. Lord Clifford then had good friends in this House, and was heard to fay, "If we take the Smyrna Fleet, and God stand neutral, he hoped to establish the Catholic Cause in England." Then came the shutting up the Exchequer! and the Declaration for Liberty of Conscience, and God did stand neuter-That gave occasion to the Test against Popery; and what he died, you have heard. Though we believe the Plot, and all is proved as plain as the Sun, yet we are thus supine. I am, as old Mordecai faid, perfuaded, that deliverance will come, notwithflanding the hardships that have been put upon the Witnesses; nay, in Parliament-time. For God's sake, let us attend the House, that the fault may not be ours? When once the Power of France shall get Ireland or Flanders (which is now almost lost) then it will be too late for the King to join with his People. Let us bring the case to Ireland, in this Message. If the Lords had fooner been of this opinion, it may be, we had not loft our Bill. Let us fee whether the Lords will come up to this Message preparatory to that Bill; at least let us endeavour to bring the Lords to be of opinion, that they are in as great danger as we, and then I hope the Lords will come up to us.

Sir Thomas Lee.] The House needs no persuasion to be of the Lords opinion, both as to the Plot in England and Ireland. We are all of a mind, we need not lose time in Debate of that; but your Debate is to bring the Lords

Lords to your mind, and then the plainer you speak, the better. You may therefore put in "Exclusion of the Duke from the Succession, &c."

Sir Thomas Meres.] As you put it, it seems those Additions are a condition; it is plain we shall agree with the Lords. Make your Additions to the Question, but not

Conditions.

Lord Russel, J At the end of the Lords Vote, I would add, "And that the Duke's being a Papist, and the expectation of his coming such to the Crown, has been the greatest

encouragement to the Plot."

Colonel Birch.] You have been moved to desire a Conference with the Lords, and there to deliver your Additions, with your Reasons. I see a great deal of difference betwixt Reasons at a Conference upon Bills, and this of Additions to their Vote. In the last Long Parliament, the House came to a Resolution upon Lord Holles's case in the King's-Bench, formerly, about Freedom of Speech in Parliament*. To my best remembrance, they went to the Lords by Conference, and gave the Reasons of the House of Commons for that Resolve. By that means the Reasons will be entered in the Lords Journal to Posterity.

Mr Hampden.] It has been very frequent anciently, that things of right have been delivered to the Lords at a Conference. In 3 Charles I, Impeachments were delivered at a Conference, of which old Parliament-men can give you a better account. Bring it to a Dispute, and reason it afterwards. It is no Breach of Correspondence with the Lords to give Reasons at a Conference for our Addition to the Lords Vote. Ours may persuade and induce the Lords to agree, and I think it not unparlia-

mentary at all.

Sir John Trevor.] There are Precedents of Impeachments of Lord Bacon, Mitchell, and Mompesson, delivered at a Conserence; but the methods of Proceedings for these twenty years have been, that if you return the

^{*} See Vol. I. p. 47.

Lords their Message with Additions made, you send it up to the Lords; but if you do not agree, then you de-

fire a Conference, and give your Reasons.

Sir Thomas Meres.] The Impeachment of Lord Mordaunt was delivered at a Conference; and no doubt but you may deliver Reasons there. But I rise for this: If you agree with the Lords, you add only the words, "the Commons," to the Paper; but the Addition you intend is one entire Resolution, and must be delivered in a Paper apart by itself. This I am sure, that Resolutions of one House and the other have been amended, and Intimations and Reasons have been given for the Additions. I can produce four or five Instances.

Mr Boscawen.] This will be a strange kind of Conference, and nothing said at it. When you go to Conference with the Lords, it is to have a good understanding with one another, and Reasons to agree. The Lords, when they sent you down the first Examination, delivered it at a Conference; to know the nature and method of the thing, and the best way to give Reasons to induce

their concurrence.

Sir Christopher Musgrave.] The Lords have sent you down barely their Vote, without Reasons. No question but you may deliver your Concurrence and Addition at a Conference; but I would fain hear if ever there was one instance that you are obliged to make Amendments. It is the liberty of each House to make what Amendment they will. If the Lords do not agree, then it is Parliamentary, at a Conference, to give your Reasons.

The Commons added to the Lords Vote, "That the Duke of York's being a Papist, and the expectation of his coming to the Crown, hath given the greatest countenance and encouragement thereto, as well as to the horrid Popish Plot in this Kingdom of England."

Mr Harbord.] Lord Macguire, who was one of the great promoters of the Massacre in Ireland, was brought over hither, tryed, and executed at Tyburn, and was tryed by a Common Jury.

Sir

Sir William Jones.] There is no question, but a Peer of Ireland is but a Commoner in England, and no question but he may be proceeded against by Impeachment as well as by Common Tryal; and I shall offer my reasons why to proceed against Lord Tyrone by Impeachment. We are not yet so hopeful of our Judges as we may be, and I would have this Tryal in as solemn a manner as may be; you cannot mistrust your Managers, nor a Common Jury, but the accusation of Lord Tyrone arising in Parliament, it is properest he be tryed in Parliament.

Mr Harbord.] I should be forry that Tyrone should be tryed by the Lords: I would have the most known way rather, by a Common Jury. I suppose this Gentleman is a Commoner of England, and I am verily persuaded, a Jury will try him truly. I know not how this matter is settled of the Tryal of him as a Commoner. I think he may as well be tryed by a Jury of Middlesex; I dare trust them as well as somebody.

It was answered by another,] That Lord Chief Justice Scroggs was impeached by the Commons, and, though

a Commoner, yet to be tryed by the Lords.

Mr Boscawen.] No Commoner can be tryed by the Lords but by Impeachment of the Commons, and so there is no danger. You would not send him home to be tryed by an Irish Jury of Peers. There is no fear but, in the good inclination the Lords are in, upon good Evidence they will find him guilty.

Mr Harbord.] I would not have that doctrine pass for current "That he will have a safe Tryal by the Lords." In the Long Parliament we sat it out sometimes to a man, and so I fear Impeachments may not be so safe always in

Parliaments.

Sir John Trevor.] "A Cause that concerns a whole Kingdom, the Lives and Fortunes of all Ireland"—33 H. VIII: The King appoints the Judges, though the Sheriffs may return good Juries, and give encouragement to those poor People that are come over to prosecute—That Vol. VIII.

they may probably have good effect of their Profecution.

I would impeach him.

Mr Hampden.] If you intend to charge Lord Tyrone, it is fit you defire the Lords that he may be in fafe Custody, and the Lords are obliged to commit him. My Lord Privy Seal said, at a Conference, "The Lords would commit upon special matter charged," but was disowned in it by three or four Lords, viz. "That the Lords had made a special Order to commit upon special matter charged by the Commons." Although Tyrone be committed to the Gate-bouse, yet it is not so safe a Commitment as upon an Impeachment.

Sir Thomas Lee.] I concur to carry up the Impeachment with special matter. In some cases, you have carried up special matter, and in some not. I am of opinion that you should require Imprisonment of the Lords, for you cannot take notice that he is in the Gate-bouse. If you fend this Impeachment up without special matter, you have a good opportunity for the Lords to agree to it, and

fettle that point.

Sir Francis Winnington.] In carrying up the Impeachments of the five Lords, I do not remember you fent up special matter. In Lord Strafford's case in print, and so in Sir George Ratcliffe's case, who was committed to the Gate-bouse, and Lord Strafford to the Black-Rod, yet it was prayed by the Commons that they might be in safe custody. You cannot take notice of the Lords Commitments.

Serjeant Maynard.] To be the more regular, when you defire the Lords to commit him, you may fay we

have Articles of High-Treason against him.

Mr Hampden.] Two of the Witnesses are in Ireland. It is worthy your consideration to have those safely sent for that are to give Evidence.

Mr Boscawen.] I would have the Clerks of the Council asked, what Depositions have been taken out of Ireland.

and how those may be sent for?

Colonel Birch.] I speak to inform you, that though some of the Witnesses are in Ireland, yet three are

Debates in Parliament in 1680.

in England that speak point-blank to this Conspiracy

wherein this Lord is concerned.

Sir William Jones.] Appoint the Committee to fearch into Proofs, and they will acquaint you how the Proofs stand.

[Refolved, Nem. con. That Richard Poore, Esq; Earl of Tyrone in the Kingdom of Ireland, be impeached of High-Treason.]

Friday, January 7.

[The House was informed, That] a Writ of Habeas Corpus had been directed to the Serjeant of the House, to bring the Body of Mr Sheridan to Mr Justice Raymond's * house in Chancery Lane.

Mr Boscawen.] The Judge might not have gone so far as he has done. It may be, the Serjeant had other Prisoners, and your Commitment of Sheridan is not for Breach of Privilege. He is a Serjeant at Arms, though he attend the House; so it does not appear but that the Serjeant may have Sheridan in Custody upon another Warrant. I would be careful to preserve the Privilege of the House on the one hand, and the Habeas Corpus on the other. I would have the Serjeant give the Judge an account, "That he has Sheridan in Custody, but that he knows not that he has him legally, &c."

Sir Thomas Clarges.] Lord Shaftsbury was committed by Parliament, and took out his Habeas Corpus, but the Judges had the discretion to remand him; and a Habeas Corpus does lie, unless for Treason, Felony, or in Execution and convict persons, &c. Commitments of the Commons are in execution. As I now stand apprized of it, the Serjeant may carry Sheridan to the Judge with the

cause of his Commitment.

Sir Francis Winnington.] I take this business to be worth your consideration. The case of Lord Shaftsbury is not this case. The Act of Habeas Corpus was made since that time. On the other hand, it is rarely found, that a Person, committed by either House, has been sent for by the Judges. As I would do Justice to the Subject, so I would not, out of compliment, give up your Privilege. I would adjourn this Debate till to-morrow, and

^{*} In the Journal it is " Mr Baron Wefton."

go upon the Business of the Day. I speak not for an Order, but because there is a Penalty in the Statute, I would consider of it for the Serjeant's sake.

It was adjourned to the next day.

The King's Message was read, which fee p. 234.

Mr Booth. I defire to trouble you with a few words. His Majesty, in the beginning of his Message, tells us, "He has all disposition to give us satisfaction, &c." I do not doubt his gracious inclination to this House, when he pursues the dictates of his own Judgment, without confulting other persons. There is nothing in our Address but what might be understood at first fight, and needed no time of confideration. He knew it before it was presented by this House, and all remedies have been ineffectual but the Exclusion. The thing has been thoroughly debated, and fettled, and why we should withdraw from it, I know not; and why the King should be confirmed not to do it, I am in the dark. It is known how the King's presence does influence the Lords House, and that Titles are given rather by interest than merit. And men so influenced shall I believe? Shall I believe worse of my servants, because what they did was by my directions? The King, in his Meffage, fays, "What shall be done by us in a Parliamentary way, &c. he will comply with." But when I consider that nothing, without a miracle, can deliver us, but the Bill of Exclusion, if we are deprived of that, we cannot preferve the King's Person, nor the Government, nor enable him to preferve Tangier. Till now, I never knew the confequence of Tangier, and that Tangier is the principal thing for our fafety—I cannot dive into that mystery; if it be like a lame leg to beg Money by, and then like Dunkirk to be fold—This is a time not to be very modest. Is not this of the Duke, for a man, before his Father be dead, to fet up for himself, to defraud his Father of his just Right? We find the Duke in every part of the Evidence of the Plot; and what to do, but to eclipse his Father's glory, who died a Martyr for the Protest-

Protestant Religion? Who was it that released the Persons taken firing of London? I hope they will remember him for it. Arbitrary Power has been fetting up ever fince King James's time; and Arbitrary Power will be fet up with Popery; and there is no means but this Bill of Exclusion, without which, Popery and Arbitrary Power will be fet up; and it is the more dangerous, because carried on so in the Court, that one would think the King had a hand in it. But my Allegiance teaches me to pay my Duty, as an English Subject, to an English King. But there is great cause why they should be coupled, fince Popery and Arbitrary Power are the touch-stones for a man to be in employment at Court; and I have little hope of good from Whitehall while those men are there. Converts are usually more zealous than those bred up Papists; and he that apostatizes is more dangerous, and his advice is more destructive: And this is the case of our Ministers. We were in a fine way once; who but Oates, and Bedlow, and the Plot? And now a great many cannot think Lord Stafford guilty of Treason. There is no hope for us without remove, and it is not difficult for us to name men; and if they be named, I hope they will be thought Traytors to their King and Country. They have fo prevailed with the King, that they have put his Perfon into imminent danger. I would put a brand upon them who have diffuaded the King from complying with our advice, and have divided the King from the Country; and next, I would give no Money till these things are remedied; and next, I would fet a brand upon those who shall lend the King Money upon the Revenue without authority of Parliament; and then I would lay before him the danger of rejecting the advice of his Parliament, and taking the advice of other Persons, and that, if we cannot effect these things, we may go home to our Country, if he please to command us.

Lord Russel.] It appears plainly by the King's Message, what interest is prevalent at Court, the Duke's creatures; which is so great, that little good can be effected. Where

Popery is so countenanced, we can do little good. Nothing can save the Nation but Union betwixt the King and the Parliament. We have done our parts to procure it; the Parliament will never be undisposed to do it; but unfortunately some get betwixt the King and us, to frustrate our good intentions, and to promote the Duke's interest, though to the King's destruction. We know who have advised the King to these things, and that he should not pass the Bill of Exclusion, &c. Therefore I am of Booth's opinion, to stick to the Bill, as our only security, and to brand those that have hindered it

from paffing.

Mr Montagu. Plainly, by the King's Meffage we fee the ill condition we are like to be in, after we have fat fo many weeks, and made fo many requests, without any fatisfactory Answer. I believe there was never more Loyalty to a King of England from his Subjects; but not to have one Bill pass, nor a kind Answer to our Addresses! Therefore I expect not much good from Bills we are like to pass. We have nothing left us but Votes. When the King recommended the Plot to our consideration, we, like honest Country Gentlemen, looked for it in the Tower, but it was not there; let us look into Whiteball, and we shall find those more guilty of it than Lord Powis, and the rest of the Lords. He that goes to War with Armour not proof, had rather have none; nothing can fecure us but the Bill of Exclusion, &c.—We see those in the Lords House, who were for the Bill, put out of Office, as here, and those put into Office who were against it. I am of opinion, that both Tangier and Flanders are in danger of being loft; but I had rather fee the French in Flanders, and the Moors in Tangier, than the Pope in England; and I would give no Money till the Bill of Exclusion be passed, as the only fecurity we have, &c.

Sir Henry Capel.] I think the Debate this Day is about the Meffage the King fent us. Though it confifts of feveral parts, yet I would come especially to what Booth opened, who spoke well for his Country, and we ought

to value him for it. He mentioned four things, but I would not have four hares on foot at a time. I concur to them all, but, for method's fake, I would begin with one first, which is "The Bill of the Succession." I observe the King has graciously admitted us to address upon this Bill; the Lords have not been fo gracious as to admit us to a Conference before they threw it out. Day's Debate is of the greatest consequence to England in the world. This House passed the Bill, &c. and it was rejected by the Lords, and they have fat fome time fince, to confider whether any thing else will do it. I appeal to those Gentlemen against the Bill, whether any Motion has been made fince, for the fafety of the King and the Protestant Religion? If they will stand up, and fay fo, I will fit down-But nobody doing fo, therefore it is proper to speak; and fo I shall. Great Arguments are made abroad, by men that know the Laws, Religion, and the Government, that bundle them together, that if you will preserve this King, this Government, and this Religion, this Bill must pass—Then consider what little encouragement we have from the Lords-No Expedient from the Lords, that if possibly we might be faved without this Bill; if it were possible to have any, I would stay for it; but the Bill was fent up in November, and to this day we have heard nothing from them. I take it, that the state of the Nation is at the Lords door, and not at ours. We adjourned but four days in the Christmas week, and the Lords all the week. If any thing was fent you, it was about Mr Seymour's Petition; a thing of much less moment than the Duke's Exclusion. Now the Popish Lords are sent out of the House, it is strange that the Bench of Bishops should be against the Bill. In Rich. II's time, some Lords were called up to the Lords House, and they were called "The King's Pocket-Lords." Such are not shoulders to support him. I think we ought to speak plain, and plainer than we have spoken yet. All these things come from the Ministers, who have some deep-laid design to be carried on by them. It is plain that the Ministers, after the life S A

of the King, will put upon the Throne a Prince of one Religion, and the People of another. In Germany, a Calvinist Prince, and a Lutheran People, may subsist; but these would have the King a Papist, and the Kingdom Protestants. Will any man think that any Minister of State, a man rather of wit and tongue, and not of thought, one indifferent in Religion, who will go with or against Popery, as the torrent drives him; can any man think to have other Counfels from fuch a Minister? (Halifax.) I will dedicate my service to the King and his interest. I see that others do otherwise, and will destroy us. These Ministers in the Government are Machiavels—One of these two things; this must come to a fland, or we must come to blood. There are but two forts of Monarchy in the whole World; one absolute without limitation, as that of France, where the Subjects are at the disposal of the King for life and limb, and to invade other Nations Property for the luxury of the Court; and little men of low fortunes are the Ministers of State— And whoever does that, I shall suspect him for absolute Monarchy. Cardinal Richlieu would not fuffer fo great a man as the Duke of Montmorency, but cut off his head, and another Churchman fucceeded him, who suppressed all the great men of France, and all to support absolute Monarchy. We have Counfellors both in the Lords and Commons House are come to it too, and so to break perpetual intercourse betwixt the King and his People -When a Parliament is to meet, what are the great points they will go upon? Why, they are Religion. And when a Parliament shall tender any thing of that, can you believe that a King that is a Papist will not have his Priests to advise the passing our Laws? It is not confiftent. Shall you be ever able to fecure yourselves when the King shall fay "You have nothing to do with Religion?" And you will give the King no Money, and fo all will be loft. Foreign Princes will never meddle with us, because without Trust no Government can subsist. know the World is still in motion; either we shall be overrun with the Government, or, in short, by France and Popery. Popery. It is plain it will be a body without a head, of a head without a body; and it is plain that a body will get a new head, or a head a new body, and so we shall all be in blood. Those who hinder the King and us from being one, and will not exclude a Popish Successor, are the cause of all the blood to posterity. These Ministers will not be the only immediate cause of it; but they will crown all the advices that have gone before by Lord Clifford and the rest; therefore I move, "That we may tell the King, this Bill is our whole, our all." We cannot subsist without it. All things will be in confusion, the Monarchy lost. I would have the World see we have no intention to eclipse the Monarchy, by meddling with the Militia or the Prerogative—When this is

done, we have nothing to do, but adjourn.

Mr Hyde.] The Honourable Person who spoke last, · has called upon those Gentlemen who were against the Bill for excluding the Duke, for an Expedient, now the Bill is rejected. I will not fay I can offer an Expedient, because there was no encouragement. The Day the Bill was voted, a Motion was made to debate Expedients. The House was not willing, and therefore they had no encouragement. Some Expedients were offered them, in the former Parliament, in print, but all were rejected. Where then is the encouragement? I shall not offer any now, but if you will take any of those formerly offered, they would do you no harm. My own opinion about this Bill has been well known. I am not ashamed to own it here, that I was against this Bill, nor in other places; never, no, never. This, according to the method of the Government, is very strange; a Bill that the Lords rejected very unanimously, to offer this in an Address to the King, "That he is in ill hands, and if he was in good company, things would be better." In my opinion, these are no great Compliments to the King. The King gives his Negative, and we fee that both parts of the Legislative Authority are against this Bill. This alters the Government; this must, it seems, be an Act without the Peers. I think this is an extraordinary way. If my advice be taken,

taken, (as I believe it will not) take any Expedient: The King asks your Advice, and about Tangier, &c. See whether any thing of Expedient can make your condition worse than it was before.

Mr Leveson Gower. The Gentleman that spoke last. asks you "What harm there would be in considering Expedients?" If you have not fecurity for your Money, it is no matter how great the Interest is that you are paid. Because the Monarchy of Spain would not have a Protestant Prince, therefore I am against a Popish Prince to govern here in England. He tells you "The Lords rejected your Bill." But if the Lords had been left to themfelves, they would have passed this Bill as well as we. But there is great reason why we have not this Bill passed: Persons near the King are so interested for the Duke, and, fo long as they are at Court, we shall not have this Foreign Persons that have interest in our Court have all manner of access. The French Ambassador has continual access; not, as heretofore, to be introduced by the Master of the Ceremonies-Those there take their Counfels from him, and are paid for it by him. The Court is become the Nursery of all manner of Vices, transplanted into all England, and those are become only fit for the Court that are fo. I would have the House freely express themselves about Persons about the King, who hinder those things, and so long as these things are so, it is not possible that what we do should succeed. Therefore I move, "That we may give no Money till we are better fecured of our Religion and Properties;" which I can fee no way for but by this Bill.

Sir Robert Markham.] As an Expedient, instead of the Bill, what if the Prince of Orange should be taken into the Regency with the Duke, as an ornament to him?

(Laughed at.)

Mr Hampden.] You feem, by the Debate, to incline to think that no other way can fecure us, but the Bill, and I am still of opinion, I could wish I could hear Expedients; but none were offered this Parliament; what were offered was the last Parliament. When we go to fight,

fight, we are offered a Bean-straw instead of a Sword to fight with. Nothing was offered the last Parliament like an Expedient. You found all the Laws in being, made by the wisdom of your Ancestors for your safety, frustrated by the Duke: This is no new thing fince 1670; Have not all things been fo?—2,500,000l. was given to make a brave War with the Dutch; the Money was got, and the Peace made, but the Dutch would not—But it had another effect; it helped to ruin a Protestant neighbour— And fo many more fums—Have you not had great fruit of all this? Is not France brought very low? All Laws are put in execution except those against Popery, when it comes to the highest-What has been done in the interval of Parliament? A few apprentices, for pulling down Bawdy-houses, were hanged for Treason-And this in the Reign of a Protestant Prince. What must we expect under a Popish Prince? Will your Laws be better preserved? Do you think to live in England and be Protestants? It is fo abfurd a thing, no man can imagine it.— But I do not know whether parliamentarily the King can take notice of the Lords rejecting our Bill of excluding the Duke, &c. The Proviso in the Long Parliament, to exempt the Duke from the Oaths and Test, was so little rectified here (I thought it would have passed without contradiction) that it was carried but by two Voices— And now the Plot has been these two years discovered. and we have been handling it, and making fport with it; but I believe we have had, and have a Plot, and we are in more danger than ever. Secure the Protestant Religion, else all things besides will be ineffectual. I will fay nothing more to the Ministers; but if we admit any remedy, without the Bill of Exclusion, we expose the Kingdom and the Protestant Religion to ruin.

Lord Cavendish.] I agree to all that has been said concerning the Bill, and I think we are not secure with it, nor without it. I do agree to the Question, if express only as to this Bill; but if we can do nothing to secure ourselves but the Bill, that I am not satisfied in. But those

Sir William Jones. You have had feveral propositions made, and the way to accomplish none of them, is, to begin with them all together. The first Motion is, "To adhere to the Bill, as fo necessary, that without it we cannot think ourselves secure." It is a long time since I thought so in this House, and I have not heard one Expedient instead of the Bill, except one this Morning, and that not well confidered (Markham's,) and I think it will be never more confidered. It was faid by an ingenious Gentleman (who made a Speech for me in the House of Commons,) "That Crowns and Mistresses will have no Rivals." I fay "Crowns" now, for an Affociation against the Duke, without this Bill, is to affociate against a lawful King, when he is so. Some People render it ridiculous, fome impious, to make your Affociation against a lawful King, and then to fight against him. They either understand not the nature of the thing, or else they would impose upon us. It must be, if lawful, either during the King's life, or the the Duke's. The Papists will be reftless in the King's life, and increase our danger rather than remove it; and it gets a disposition in them who incline to Popery to promote it. That Bill which I have heard of in the House of Lords, to banish the Duke, and not to exclude the Duke's Title, can have no provision coherent in itself without this Bill. Cavendifb's Motion was with good intention, "To pass a Vote to make the Duke incapable to inherit, because a Papist, &c." But you are told by another, "That we are but one of three States, and the other two will not concur; and if we adhere to the Bill, we assume to ourselves a kind of legislative Power in the highest degree, in hindering a lawful Prince to succeed." And as for Cavendish's Indemnity to the People for refifting him, the People will not come up fo well to exclude a Person, who by Law has a Title. Till you have a Law to exclude him, you have a King. But it has been faid, "The King may live as long as the Duke;" but you have heard the Plot in Ireland was grounded upon the hopes of the Duke's being King of England, and so was the Plot in England too. But we are to take off the prefumption of the Duke's fucceeding. We are fure, not only Nature, but Chance, brings men to Death, besides the malice of wicked men. Will the Papifts expect who shall live longest? But when they consider, now is their time, or never; if the Duke dies before the King, they must never hope for a Popish Successor. Therefore no moment of the King's life is fafe without this Bill. I wonder any should prefer profit and commodity that one may never use, before one in possesfion. If the King dies, and the Duke inherits, it has been faid, "Can the Duke change Religion?" But can any man but see our danger, from experience? In Queen Mary's days, men were afraid, though the Ministers stood in the way of their Abbey-Lands. Yet notwithstanding, the example of the Government most men conform themselves to. This being the case, to make Arguments for the Bill is to lose time, and lessen the esteem of the Bill; if fo, then consider on what point we are.

The King tells you, "That he is confirmed, and the House of Lords have given their Judgment against it, therefore we must consider of other things;" but my opinion is, before you go one step farther, without this Bill, you can do nothing. When I have any thing but this, I shall still press this. Therefore, before you go to any other matter, pray say, that, without this Bill, you cannot be safe. I will not rely upon (I say) nor reject any Expedient; for the common people abroad must be guided by the opinion of the House; but if you seem to desire or expect any thing else, before you vote this, they will say you may be safe without it. Therefore I would rely upon this Bill. Without this remedy, any Expedient is not only insufficient, but dangerous.

Lord Cavendish.] I would not have it understood, that what I proposed was to be relied upon without the Bill—If a Vote cannot do any thing without this Bill, it might be inferred that we need not sit here any longer, and so

make a breach.

Sir Francis Winnington.] Now I see the House so full and attentive to this Debate, I cannot, without Breach of Trust, but give my testimony of consent. When this Bill to exclude the Duke was brought in, first, was showed a pretermission of accidents in other persons, or their interests contrary to the Government; so I would not have Gentlemen mistake, as if the thing was never done before —But it would be a reproach and shame to us in our graves, when the Nation shall be ruined by our default. The confideration of the King's Message is the Business of the Day. I confess, when I read it, I was amazed. I am confident and perfuaded that it was penned by a man that defigned our ruin, and not our preservation. King tells us in it, "He is confirmed in his Opinion against our Bill, &c." The Gentleman by me (Jones) has prevented me in much I had to fay. I know not, in a Parliamentary way, how the King could take notice of what was done in either House, but by the advice of those about him. I would know how the King comes to know this? The King came frequently to the Lords House, House, much about the time the Popish Ministers came in with Lord Clifford. It was faid of Hen. VIII, " That no man knew what Religion he was of." The Act for the fix Articles was in favour of the Papifts, and yet he put down the Pope's Supremacy, and afterwards Edw. VI. came to the Crown, and he refolving to bring the Reformation to perfection, made Laws for it, and in the North they rebelled to have the old Religion preserved. At the paffing the fix Article in Parliament, Archbishop Cranmer faid, "They were not fairly come by, for the King unufually came into the Lords House, and got that Act passed by his influence." It is extant in Christ's College, and the Answers to it. I show it for this, that when the King comes into the Lords House, it takes away the folemnity and freedom of Debate. In Hen. IV's time, the indemnity of the Peers and Commons, &c. There was a dispute betwixt them about Subsidies. The King being in hafte for Money, and a little impatient, matters not being well fettled fince he had deposed Rich. II, he defired he might debate the matter with them, to fet them right. The Commons faid, "They ought to have their Debates free." And the Lords befought the King not to come amongst them; and this is entered upon the Roll as a facred thing, "That the King should come to neither House, &c." I have heard a Lord say, "That when they were about fettling Arbitrary Power, Lord Danby first follicited the Lords, and then the King, and the King has taken notice of Lords that have voted." We are part of the Legislature, as well as the Lords. Several of the Lords have Offices and Pensions, some are poor, and have no Religion, and little honesty; it is come to that pass now, when the Lords were upon that Gigg of the Popish Bill you rejected, it was for preparing the way for a Popish Successor. But it is said, "There was no hurt in that Bill." But we come here to do good. That Bill was really for Popery, and fo we entered it into the Journal. If the King comes frequently to the Lords, he must be there in statu politico; the Lords have their Hats on, and the King does not fpeak there. as in Parliament. The King only fays his Opinion privately; but now he understands your minds, I hope he will reverse the Opinion in his Message, and be of ours. When they see the business so debated, and the Parliament go away and that not done, nothing will shorten the King's Life like that. If you regard Religion or Posterity, we must stick to this Bill; though we have been told [by Hyde] "of a Loyal Party that would not obey it." Since the Reformation, we know how the Succession has gone. In King James I's Speech, after the introduction, he faid, "He could not admit the Papifts exercifing their Religion, without betraying his own conscience, and this Kingdom, and that he came from, and Posterity." If he owns such a betraying, is it not our duty to prevent fuch a betraying? And the year after, he found the Papifts in that heinous offence of the But what an imprecation he made up-Powder Plot. on himself and posterity if he tolerated Popery! In the forrowful thoughts of the late King, in his Book, he charges his Children to be Protestants, and yet Popery over-runs us by means of the Duke, against the wife and good examples and precepts of his Ancestors. The Protestant Religion is so intermixed with the civil interests of the Nation, that it is not possible to preserve them if a Popish Successor comes. It is not so much a Popish King and Protestant Subjects, but the Government is the case; that will be destroyed. Of necessity, if we have a Popish Government, all Offices and Places will be in Popish hands. In Queen Mary's time, though she promifed the Suffolk Gentlemen she would not disquiet any body for Religion, yet when she came to the Crown, she broke her word for conscience sake. If I could find a fecurity rational, though not that I would have, I should be the first for laying aside this Bill; but this is a pretty way of arguing. I know fomething I will not tell you. As to that Expedient, of "banishing the Papists," to talk of the Accessaries, when the Principal is in being, is strange. I heard it once faid here, "That the Protestant Churches beyond the seas did not allow excluding Popish

Popish Successors"—But they have, and so has England too. We know, in the case of Mary Queen of Scots pretensions, what Resolutions were taken; we made a brave Protestant Association—In that Act there is an Exclufion. Queen Elizabeth had good Ministers, and they governed well; Queen Mary had wicked, and they governed wickedly-The Prelates, too, who committed themselves to the slames for their Counsels; I would we had fuch Prelates now! But what condition are we in, if we part with this Bill? It was faid by Cavendish, "Put a Vote of Exclusion upon the Duke;" and he has reason, for he has more Land than a great many of us. -But when the King shall see Gentlemen whose interest it is, and see the unanimity of so many honest Gentlemen, you shall have your Bill, and make this Kingdom the happiest Nation in Europe, and we the happiest People. The Plot is thought a pretty conceit at Court, but we have not compounded as they have; they will be looked upon as abject fellows, to betray a good cause for an ill one. The King's Coronation-Oath is to make fuch good wholesome Laws as are for the comfort of his People. Subjectio trabit protectionem -But the King is furrounded by the Duke's creatures. I hope hereafter we shall have a brave Lords House, when fo many Noblemens Sons have begun this De-

Mr Foley.] I think it not now a time to stand upon Terms, if we so desire this Bill. In the first Message the King sent us was, What he expects from us, and we from him. I propose "That in his Majesty's presence we may debate this Exclusion, &c. with the Lords, whether any Expedient can be found in this matter."

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Mr Finch.] I will not here dispute the principles of the Protestant Religion, whether by them a Popish Successor may be excluded; nor the Question, Whether King, Lords, and Commons can do it; it is not now material; nor will I question whether this Bill be a remedy, or the best remedy, to preserve our Religion; but to what Cavendish stated only, or such remedies without which all Vol. VIII.

is ineffectual. I befeech you, confider, if the Long Parliament had proceeded at this rate of moulding men out of Offices, Lord Clifford had riveted Popery on our necks. Will you not do fomething because we cannot do all?—It was a melancholy thing, when the King was fick at Windsor, and the Parliament had done nothing; the Country had little reason to thank us, and we little reason to think well of ourselves. The King's Coronation-Oath Winnington spoke of, &c. There was never fuch an inftance where every thing was put into your hands, and the King referved but one, to repeat it as he applies it (I suppose he means not all) for the good of his People. But it is faid, "You have had no Expedient offered." But do Gentlemen expect any? Why will they urge Expedients fo much, when this Bill of Exclusion will not do alone? And for the same reason, this Bill should not go on. This I have not yet heard answered, and I know not when I shall. In the circumstance of Queen Elizabeth, Mary Queen of Scots was next Heir to the Crown, a most violent Papift, and governed by the Priefts, and ill Counfel; then fhe did fomething more than exclude her, fhe cut off her head. But were not there conspiracies against her still? And in King James's time the Powder-Treason? And when we fee, that not only Exclusion, but taking away life, did not secure from Papists, what can we expect by this Bill? It was faid from the Bar, "The great Reason of the good and bad Government of Queen Mary and Queen Elizabeth was from good and bad hands their Ministry was in." If the influence of Counsellors have power to diffinguish Princes good and bad by Counsellors, make those Privy-Counsellors by Act of Parliament, and that nothing shall be valid, but by their Advice; that is a remedy. I have heard from the Bar another thing, viz. "the banishing of the most considerable Papists, and taking the two third parts of their Estates forfeited to the Crown, and the next Protestant Heir to inherit the Estate. and those who have the Estate will have the interest; that Papists may be convicted by Act of Parliament, &c." That

That remedy of Exclusion is in all other respects a contingent one, and suture, but these I have proposed will be to bind Posterity, &c. But suppose the Exclusion be absolutely necessary, consider whether it is not more likely, and you will be in a better condition to attain the Bill, when these things are done than now; these are not only necessary against Popery, but preparatory to that Bill. Your Vote made the Bill known. I move, that you will not spend more time in fruitless Debate, but go on upon things you have a certain prospect of effecting, and not leave them for uncertain and what you have no prospect

of effecting.

Colonel Birch.] I fee no way to fave this Kingdom. The iniquity of our beels has compassed us about, and the hand of God is upon us; and whether have we not, in that, made ourselves Popish before we come at it. I can remember, when no man and his family came to Church without his Book: That, the Papist will deprive us of, and we must have nothing but the bread in the Sacrament. We have laid afide the practical part of Religion, &c. We must reform these things, else we shall never preserve the Protestant Religion. I have fat still, and heard what people have said to-day; it is terrible to me! I have fat to hear an Expedient, or any thing like it. If I had but Armour of Protestant proof, I would make use of it in this business. As to that Expedient of "the Parliament naming the Council," I have hearkened to it, if fuch a Council as the major part of the House shall be satisfied with—I never expect this House shall mend all that is amis-But suppose we had this Bill, unless the King come over to us, we are never the nearer. The Storm is upon your heads. I suppose that the Motion was intended "the Parliament to name the Council, should the Duke come to the Crown." But that is fuch a breach of the Prerogative, it will fall of itself. But we are so out of order, that the Bill will do us no good, but you must change the interests of the Ministers. Queen Elizabeth stood upon a Protestant interest and bottom, and her Council was so too. T 2 Unless

Unless the King be satisfied that it is his interest to join with the Commons of England—That is a reason for the Bill, because it changes his interest. In Queen Mary's time, the opinion was, she was a gallant resolute Woman, and would make good what she had promised the Londoners and Suffolk men; but Bishop Gardiner fell to commit people for Religion. Said the Queen, "What do you mean?" Says Gardiner, "The Law is not stopped; I will not ftay for a new Law." But as I have heard, the Queen gave him a good shove for it. But when Bonner came from Rome, and perfuaded her, and Cardinal Pole, she The Garrison of Portsmouth, the Magazine and Stores, all, all places both in England and Ireland are disposed of by the Duke. Popery I fear not, but that debauched Protestants will turn over the Boat; and whilst our Government is in the hand of fuch Council, it never will be otherwise. I cannot believe, but that the King, out of affection to his Brother, has faid this in the Message; but he has not put a Negative, as the Lords have done, at one The Fanatics, though against their own interest, yet they stuck to the matter of the Declaration, but a sum of money got that off; perhaps this may do fo too. cannot but believe that the King, with fuch a House of Commons asthis, at a free Conference, would be convinced of the necessity of this Bill. I waited upon this King at Worcester, and it cost me pretty dear, and I was some time with him, and it may be he told me what he would flick to, and from that time I believed it, as I believe he is King of England; what he faid then was found and good. The King has been often told of his being beholden to Parliaments; and King James told the Duke of Buckingham, "If you do amis, I cannot save thee." But fays Gondomar to the Duke "The Parliament are men that rail at you, but I will tell you how you shall redeem that; Get a Parliament that must spend high, and they will ruin themselves." The thing is cut out by a thread; either there is a wheel within a wheel, or it is impossible these things should have gone on so long. Because there are very little hopes of an Expedient, Gentlemen do refort be this Debate. I would venture some money upon the Bill; for if it comes to boxing, I would have something on my side. If we attain this Bill, it will certainly break this interest. It is not the man that swears, but he that fears an Oath. I agree "That by Address we move the King, though the Lords have thrown out the Bill, and in all the Debate we have had no tendency to our end, that in the mean time, without it, we are in no way

of fafety to him nor the Kingdom."

Sir Edward Dering.] I think the Bill the best Expedient, as I always did. You have been told of a Conference with the Lords about it, if it may be done in a Parliamentary way. I cannot say it is not usual, but there is a Precedent that the Commons did address the King for a Conference with the Lords; the King answered, "He would do it of Grace, but not of Right," and it was not done. The King's denial of the Bill in his Message is very favourable and gentle to us, "That it is the Lords opinion &cc." If the King lays his reasonable resusal upon the Lords, and if once you give Reasons to satisfy the Lords, if they be with us, the argument is very favourable for the King's consent. I move, therefore, "That such an

Address may be made to the King."

Sir Leoline Jenkins. The Question is of great importance, and, before I give my Vote, I defire to give you an account of my Judgment in it. There is no demonstration of this, and can be none. In Queen Elizabeth's time there was not only a Popish Successor, but a Rival, and I am not against the opinion of venturing a Popish Head upon a Protestant Body, but I will give you an instance of one. The Duke of Hanover, who travelled into Italy, changed his Religion, and from that time reigned peaceably, and none in his Court, or his Dominions, were troubled in their Religion by it. A Popish Successor in England would be a calamitous thing; but what I move is, that you would fortify yourselves with good Bills against Popery, and leave the rest to the protection of Almighty God. I shall explain myself: I had rather trust to the Providence of God, than do any thing unjust or unlawful, to secure our Religion, his title being Dei Gratia. I would have all things done lawfully for preservation of Religion, but I question whether, by the Constitution of the Government, this be lawful; therefore I am against the

Question.

Colonel Titus. Many a learned Gentleman has difcoursed this business, and a man can hardly say any thing new. But what Jenkins has faid, calls me up, which I should be glad were true in matter of Fact. He tells you, "He would rather trust God, than do an unlawful act." But the Question is not whether we should trust God, but whether this is an unlawful act? Mankind cannot confift together without a supreme Power, and that in our Government is the Legislative; which, if done by that Authority, is no unlawful act. It may be unlawful in itself, because men may err. but it is lawful. Can any man fay, that what concerns the Government is not in the supreme Power? It is a contradiction to make it supreme, and not supreme. He fays "Queen Elizabeth was secure, though fhe had a Popish Successor." But all her life it was attempted. "Princes that are excommunicated," the Jesuits fay, "ought to be taken away, and the doing it is fervice to God Almighty." But to the matter itself: I wonder that after all the constancy of the House against Popery. and the resolution the King has shown, we should have this Message. When I consider the Council the King has for fo many years had about him, and what principles they are of, it is no wonder that they have advised this Message, "That you shall have any other remedies, &c. but only the King does adhere and will infift that the Line shall not be interrupted, &c." Now the question is, whether denying you this, is not denying you every thing. When there are feveral Medicines, and you are denied one, you may have your end in another, but when there is but one, denying that is denying you plainly. A man that has a Quinfey, if the Physician denies to let him blood, he denies to cure him. He had better have a Confessor than a Physician. He should rather make his Will

Will than take Physic. "You shall be allowed any other remedy, &c." But a Popish King that has the command of the Army, the Navy, the Judges, and the Bishops, will not let you come by any of your Expedients; you will be only under the power of him that will destroy, and not protect you. If the Frogs have a Stork to their King. and if the Frogs will facrifice to Jupiter for this favour, it would be a very weak thing. If a Lion was in the Lobby, and we were to confider which way to fecure ourfelves from him, and conclude it is best to shut the Door, and keep him out, "No," fays another, "let us chain him, and let him come in;" but I should be loth to put the chain on. Should the nomination of the Judges, and all other Preferments, be in your hands, what a kind of Government would you have, without Feet or Claws? As fuch a King cannot hurt you, so he cannot protect you. It has been said by another, " Let us establish a good Council about the King." But I never knew a King and his Council of a different opinion. A wife King has and always makes a wife Council, but a wife Council does not always make a wife King. By not passing this Bill, a power is put into the hands of a Popish King for your destruction. The Priests will not let him have the Sacrament, if he does not what they would have him, nor shall he be long a King. I will not follow the opinion of others, nor any passion of my own in this matter, but out of persuasion that there is no fafety for us under a Popish King.

Sir Francis Winnington proposed a Vote, which passed with some little alteration. See it at the end of the De-

bate.

Sir Robert Howard.] Whoever is for the Bill, and against the Duke's succeeding, &c. I shall believe is for the King, and whosoever is against the Bill, I shall believe is against him. But as for what has been proposed for naming the King's Council, &c. you will make him no Monarch, at that rate—Let us redeem an English King from the shame he is in, and let this House be satisfied that we are safe in Religion and our Properties

perties—Let us fairly tell the King in this one point in controverfy, "Without this we cannot give any Refolution, in any thing like Supply, whilft the terror of a

Popish Successor is upon the Nation."

Mr Boscawen.] I differ from some things that have been said. The Law makes it, that all Officers must be Protestants and not Papists, and it is a strange thing if the Head can guide the Members right if of a contrary interest. In excluding the Popish Lords from the Lords House, they have a Right there, as well as the Duke to succeed to the Crown. If Idolatry be not lawful by the Law of God, you may exclude an Idolater from the Succession of the Crown by the Law of Man.

Sir Henry Capel. I agree with the Honourable Person (Finch) in one thing, amongst some other of his Expedients, "That the Counsellors about the King are ill," else it is no Expedient to fettle good ones. If we remove what stands between the King and us, we shall understand one another. I must speak plainer to one particular Person. When I confider his Birth, Quality, and Father, (and his former actions before he aspired) his Parts and Wit, so beyond other men; I have been filent to hear him fighting our Battles in the Lords House; and his conversation to me was a great surprize—I should pardon him for all his faults, but now fince he has had an addition to his Coronet, within a few years—Let him be what he will, I will not spare him; and it is the Earl of Halifax. He knows well, that our Government will not admit of a Premier Minister of State, to sway all things. The King has his Council to advise with, established by Law, and that in Corners and Chambers is not our Council of England. It may be, this Lord was not always fo, and therefore the more dangerous. I will not make a comparison, but he is one of those who advised this Mesfage. I think the Debate of this Day is wholly as to the Ministers, and therefore it is not out of Order to offer you a Question, viz. "That the Earl of Halifax has been the Promoter and Adviser of this last Message from

from the King, and that he is an Enemy to the King and

Country."

Lord Russel.] I think an Honourable Person of this House knows more of the secret of these Councils than any one, and that is Mr Hyde. I cannot think but, considering his Relation to the Duke, that it is not safe he should be in the Council. I would have him removed.

Sir John Hotham.] I wonder that Lord Castleton is so much against Common Fame. Do men give such dark Counsels before any body? They will not, unless they are mad. For my part, if I gave such Counsel, I would search the Room; but there are more in the Kennel than Lord Halifax. I am a stranger to Common Fame, but he is complicated with others in these Councils.

Sir William Hickman.] I will never speak for a friend here. But after having given Lord Halifax so large a commendation, I wonder the Gentleman (Capel) should

conclude so bitterly against him.

Colonel Titus.] This cannot be a Question upon that Lord yet. "If he counselled this Message, or whoever did advise the King to do it, they are Promoters of Popery, and are Enemies to the King and Kingdom:" Then

you come properly to name particular persons.

Mr Hyde.] It may be, I shall not speak prudently, but I may speak, whilst I am here, and have liberty to speak; which I shall do to the Question, not for myself. I protest, in the presence of Almighty God, I never advised any thing of this Message from the King. There is a liberty in the Lords, and a liberty in us, and a liberty in the King to call his Council, to advise whether he shall pass a Bill, or not. This is a wonderful Vote to me; it is against the Constitution of the Government, and I shall give my Negative to it.

Sir William Hickman.] This is a great charge upon a man, to be a promoter of Popery, and an enemy to the King and Kingdom. But is there any proof of it against Lord Halifax in the least circumstance; only his Judgment given in the Lords House against the Bill? And

I have heard, he has fat filent ever fince.

Mr Harbord.] I have all the respect for this Lord that can be, and am sorry for the Charge against him, but those that give these Counsels, take care they should not be known. In the case betwixt Lord Bristol and Sir Richard Temple, the King gave you an account, who gave him that Advice. If a Gentleman's Plate be missing out of his Parlour, do not you enquire who has been there? It is plain this Lord is everlastingly with the King, and in private, and the Nation is like to be lost. He being locked up with the King, almost every day, I must impute these Counsels to Lord Halifax.

Mr Finch.] The King fays "That the Lords Judgment about the Bill has confirmed him in his." To vote a person an Enemy to the King and Kingdom, is a little too hasty, for the Lords advised it. In the case of Lord Bristol and Sir Richard Temple, the King told you who gave the Advice. I would stay now till the King

shall tell you who gave this Advice.

Mr Leveson Gower.] I am so far from thinking that this Message came from the Lords House, that I believe they had not given their Vote against the Bill but for such

Ministers.

Sir Thomas Meres.] I thought this Question had been waved by the General Question. I have formerly been much in this Lord's Company, but I think him no Papist; quite the contrary. Other Ministers have gotten, but this Lord has no Office, and this Vote will be very hard upon him. When men have plainly merited ill, and things are positively proved against them, you cannot go

higher than this Vote.

Colonel Titus.] There is a difference betwixt Halifax's Counsels and Principles. We know the Prorogation of the last Parliament was, when the Plot was at the height. We do not know who gives these Counsels, but we know who are at the King's up-rising and down-lying, and ever with him. Some fort of fish are taken with worms, and some with slies, and this person is made an Earl; from being the best Freeholder in England to be the worst Earl in Court. From him I expect persecution most, who

who was once one amongst us. The King can do no hurt, no injustice; Counsellors and Judges must answer for what is done; but if they be knaves or prove fools ' from Dan to Beersheba, must nobody answer? Have we not, for some years, affisted France, to make him bigger who was too big for us before? If Queen Elizabeth had affifted the Spaniards against Hen. IV. of France, she had had bad Counsellors for Queen Elizabeth, and very good for King Philip. We go not about to take away life or limb, nor to try a man secundum allegata et probata. I am satisfied that here is a Council that has ruined you at home and abroad, and I wonder for what fingle virtue they have fo many friends. man that plays well, and has ill fortune, I will not bet upon his hand, much less upon a man that plays ill. Pray put the Question.

Lord Cavendish. I stand not up to speak for Lord Halifax, though I confess obligation to him, and will return it, when I am in a fit capacity, in another Place. You have passed a Vote in general, " That the Advisers of the King's Message are Promoters of Popery, and Enemies to the King and Kingdom, &c." It is a fevere censure, or rather a punishment; but it does not appear to me that it is true that Lord Halifax advised this Answer. Is Halifax fo absolute a Minister? Is there none other about the King but him? Mr Hyde was named to have had a hand in it: he protested, in the presence of God, he had no hand in it; but yet I do not defend him. I would not do a public work with private animolities. I would pass a Vote to remove all evil Counfellors, and then name perfons. Halifax might give ill Counsels, but not this ill Counsel. I cannot agree to the Question.

Sir William Jones.] If there be a different reason for this person (Mr Hyde) there should be a different Vote. I think no man has private revenge or malice against him. I do think his passion on this occasion (Mr Hyde weeping when he last spoke in justification of himself from Popery, and

breaking off abruptly) was a little too much; but, it may be, mine, in his circumstances, might have been more. Sins

of infirmity are not so much to be punished, as of prefumption; therefore I would not be fo fevere upon a man, whose relation to the Duke brings him into his interest, as on him, who by private passions makes himfelf of his party. I am afraid his relation is too near to the Duke to have any fecurity from him, and we cannot have that confidence in him, as in other men. fworn "That he never had a hand in the advice of this Meffage +." I am much moved at what he fays, but his relation to the Duke prevails upon him to be of that mind and inclination. I believe, because he said it, that this Message was not by his Advice, but he has the command of the Treasury, the sinews of Peace and War, and in that relation to the Duke, he is not fit to be a Treafurer, nor to give advice to the King. I would have notice taken of him in the Votes, but with some distinction from other persons.

Mr Harbord.] I believe Mr Hyde to be a person of honour, and I pity his condition. Some of Lord Halifax's relations would have persuaded him to vindicate himself by retiring from public Employment, and that would have been something; but till that be done I would give him no quarter. I desire this Gentleman may be removed from Employments, and that is all the hurt I wish

him.

The Compiler was not present at the Debates concerning the Marques of Worcester, the Earl of Clarendon, and the Earl of Fe-

versham. They held no long Debate.

Refolved, [That it is the Opinion of this House,] that there is no security or safety for the Protestant Religion, the King's life, or the well constituted and established Government of this Kingdom, without passing a Bill for disabling James Duke of York to inherit the Imperial Crown of England and Ireland, and the Dominions and Territories thereunto belonging; and to rely upon any other means or remedies without such a Bill, is not only insufficient, but dangerous.

Refolved, That, untill a Bill be passed for excluding the Duke of York, this House cannot give any Supply to his Majesty without danger to his Majesty's Person, extreme hazard to the

[†] In a great passion, he swore by God, "that he had no hand in it."

Protestant Religion, and unfaithfulness to those by whom this House is entrusted.

[Refolved, That all persons who advised his Majesty, in his last Message to this House, to insist upon an Opinion against the Bill for excluding the Duke of York, have given pernicious Counsel to his Majesty, and are Promoters of Popery, and Ene-

mies to the King and Kingdom.]

Refolved, That George Earl of Halifax is one of the Persons who advised his Majesty, in his last Message to this House, to insist upon an Opinion against the Bill for excluding the Duke of York; and that he therein has given pernicious Counsel to his Majesty, and is a Promoter of Popery, and an Enemy to the King and Kingdom.

[Refolved, That an humble Address be presented to his Majesty, to remove Henry Marquess of Worsester, Henry Earl of Clarendon, Lewis Earl of Feversham, Laurence Hyde, and Edward Seymour, Esquires, from his Majesty's Presence and Councils for ever.]

The Debate concerning Mr Seymour was adjourned to Mon-

day.]

Saturday, January 8.

[Debate on the Lords not committing Lord Chief Justice Scroggs, &c.]

Sir William Jones.] The Charge against Lord Chief Justice Scroggs is at Common-Law and Statute-Law both—I take it to be Treason in one person, and not in another, an inferior person—And in one in high Place, where he does obstruct Justice, and change the Law, is Treason at Common-Law. We all know the Plot was carried on, and that is Treason-To defame the Evidence, and hinder the suppression of the Plot, I say, is Treason by the Statutes. I say not Scroggs is guilty; I wish he were not. The Lords, as appears by their Journals, have been pleafed to read the Articles we fent up against him, and without hearing us, have given Judgment already. The Prayer of the Impeachment is, "That the Lords would commit him." But instead of a previous Question, they have bailed him; and likewise for fuspending him his Place, by their Books it appears they would not put a Question. That is, "he shall continue in his Place notwithstanding your Impeachment." In Lord Danby's

Danby's case, his Charge was not so plainly Treason as these Articles are, and the Lords, upon your demand, and upon Conference, declared, "That of Right he ought to be committed." How it came to be good Law in Lord Danby's case, and not in this, I am at a stand. I would not have any difference with the Lords, but, out of fear of that, I would not have our Privileges torn from us; so that what was delivered in that Conference relating to Lord Danby, so pleasing to this House, has been, in one instance, blemished by bailing Scroggs, and in another, by not suspending him his Place. I would appoint therefore a Committee to prepare the matter, that by Monday morning you may be able to go to Conference with the Lords about it.

Sir Thomas Lee. This is not the first time this Question has been in this House. In the case of Lord Clarendon's Impeachment, the Lords would not commit him before the Articles were brought up. The Lords refused it, the Commons infifted upon it, and the confequence was, Lord Clarendon ran away, made his escape, and, to salve up all, the Lords fent down a Bill of Banishment. In the case of Lord Danby, the Commons sent up Articles of Impeachment, which were not fo directly Treason within the Statute, as the other, and after several Conferences, an Expedient was found out; which was a Prorogation of the Parliament. Now the Lords tell you, that one Parliament will correct the errors of another; and tell us, that the Commons have got a great point, that an Impeachment shall continue, though the Parliament be prorogued or dissolved—And if Scroggs's own modesty make him not withdraw, they have made a resolution that he must be continued (and some of the Lords differed at the Conference about it, as you have heard.) Now it feems, in this Parliament, the Lords go about to correct an error they think they did in the other. I was loth, the other day, to oppose the Articles passing, &c. But consider that, if this man be little, and therefore you quit it, refolve never to have Impeachment in Parliament more. The late Duke of Buckingham, upon apprehension of his Charge, diffolved

dissolved two Parliaments, and consider what a condition we were in whilst Lord Danby held the Staff. If we are in such a condition with so little a man as Scroggs, and have so much difficulty, and the Lords will not think it Treason, unless immediately against the King, what condition shall we be in, if we have a Popish Successor, and such Judges? I would appoint some Gentlemen to search Precedents to offer the Lords at a Conference, with Reasons, &c.

Mr Powle.] Since this matter is brought into dispute, I am the more glad that it is upon this person, with so many Crimes upon him. It seems as if, right or wrong, the Lords will have disputes with you. The consequence every body sees. The Lords have acknowleged, that they ought de jure to commit Lord Danby, &c. At the beginning of the Long Parliament, twelve of the Bishops made Protestation against the Proceedings of Parliament, and this was then taken for High-Treason, and if my Notes be true, upon general accusation, the Lords took commiseration on them, and bailed them, and the Commons sent up word to the Lords, "That they were not bailable but by their consent." This was February 16, 1641.

Sir Francis Winnington. I concur with Powle, "That the management of this business in the Lords House relating to Scropps looks like an industrious disposition to break us." These Proceedings to me are wonderful. I would not invade the Rights of the Lords in what they do. They are now in their judicial capacity as a Court, and not in their legislative, and so we may search the Record, and take out Copies. The Fact has been stated, and I have been industrious to enquire into the reason. It is wonderful to all I speak with. It is said "Their reafons are, that this Charge is not Treason within the Statute, and fo it is difcretionary with them, and they may alter their Order." But the Statute is out of their cafe. We shall show them they are in the wrong, as well as in But as for altering their Order, we have Danby's case. as great right in the process and management of the Impeachment peachment as in the Justice of it. The reason is, that the person is only answerable for the Crimes, and I never heard that the persons that are to judge became Bail for the person to be tried *. We are like to have admirable determinations. Our inheritance is Right of Process of the Law, as well as in the Judgment of the Law. For the King to fequester him from his Place they would not address for it, but leave it to Scroggs's modesty whether he would exercise it, or no; but the Lords will not commit him. What makes me stand up is, that we should not now make a doubt of what was always no doubt. Therefore I would not fearch for Precedents, whether it be our Right or no, but to strengthen the opinion of the World, now the Nation is upon its last legs, that we may avoid all cause of difference with the Lords; if it be possible, that this thing may not receive the least doubt, nor the least delay. It is strange that Lord Danby, who had so mighty friends, and made so mighty a contest, and held the White Staff against us, should be committed by the Lords, and that fuch an inferior person as Scroggs should be so supported, as if he must still hold his Place against us. I would not fearch Precedents as a doubt, but to strengthen our Right at a Conference.

Sir John Trevor.] I had occasion to look upon the Precedent of 50 Edw. III, and it appears upon the Rolls, that Lord Latimer, upon the Impeachment of the Commons, was committed to the Marshalsea, and he was bailed by five Bishops, three Earls, fifteen Barons, and thirteen Commons. Here appears a Right in the Commons to his Bailment, because the thirteen Commons became his Bail by consent of the House. 4 Rich. II, Lord Ferrers was bailed, but it is not certain whether the Commons bailed him, but the Commons always had a part in consenting to it. But there is a difference when the Charge is not from the Commons. In King James's time, in the Impeachment against Lord Bacon and Sir John Bennet, &c. there were never any Articles against

^{*} The Earl of Dorfet was one of his Bail.

them from the Commons; but Complaint was made at a Conference against them, and the Lords formed the Articles; but when any Articles bordered upon Treason. as these against Scroggs do, the Lords have always sequestered the Person.

[Ordered, That a Committee be appointed to inspect the Journals of this House, and of the House of Lords, and Precedents, to justify and maintain, That the Lords ought to commit persons to fafe custody, when impeached for High-Treason by the Com-

mons in Parliament.

Monday, January 10.

Sir William Jones.] On Friday last, you made a good Vote in relation to the Bankers lending Money upon any part of the King's Revenue *. It is notoriously known, that the Officers who manage the Customs, notwithstanding the Act prohibiting the importation of French Goods, (and some of them are Members of Parliament) have let all forts of French wines come in, paying the duty of Spanish wines; fo that an Act made for fo good a purpose is broken by Members of your House. I would therefore make a Vote, "That if, for the future, the Commissioners shall knowingly break that Law, they betray the Rights and Liberties of the Nation, and are Pensioners to the French King."

Sir Francis Winnington.] We know how much that Act cost us; therefore I would set a brand upon them

that have broken it.

A Vote passed accordingly.

Refolved, That who foever advised his Majesty to prorogue this Parliament, to any other purpose than in order to the passing of a Bill for the Exclusion of James Duke of York, is a Betrayer of the King, the Protestant Religion, and of the Kingdom of England, a Promoter of the French interest, and a Pensioner to France.

Resolved, That it is the Opinion of this House, That the City of London was burnt, in the year 1666, by the Papists; deligning

way of advance, any Money, up- and shall be responded the branches of the King's Re- in Parliament." venue arising by Customs, Excise, Vol. VIII.

* This was, "That whofoever or Hearth-Money, shall be judged shall lend, or cause to be lent, by to hinder the sitting of Parliaments, and shall be responsible for the same

thereby

thereby to introduce arbitrary Power and Popery into this King-

Resolved, That it is the Opinion of this House, That James Duke of Monmouth hath been removed from his Offices and Commands by the influence of the Duke of York.

Ordered, That an humble Application be made to his Majesty, from this House, to defire him to restore the said James Duke of

Monmouth to his faid Offices and Commands.

Resolved, That it is the Opinion of this House, That the Profecution of Protestant Dissenters upon the Penal Laws, is, at this time, grievous to the Subject, a weakening of the Protestant Interest, an Encouragement to Popery, and dangerous to the Peace of the Kingdom *.

The Parliament was then prorogued by his Majesty to January 20, and foon after was diffolved by Proclamation, and a new Parliament was fummoned to meet at Oxford +, March 21.]

Though the King came private-ly to the House this Day, the Com-mons had a quarter of an hour's anti-constitutional Proceeding; and previous notice. In which fhort interval, in a loose and disorderly manner, they made a shift to pass the above extraordinary Refolves. They had not time to proceed any farther, if they had any farther matter to proceed upon. While the last Vote was yet passing, the Usher of the Black-Rod came to the door, and ordered their attendance on his Majesty above : They obeyed. The King passed such Bills as he thought proper, and the Lord Chancellor prorogued the Parliament, &c. The Bill to repeal the persecuting Law, 35 Elizabeth, by a Court-Juggle, or, as some say, by the express command of his Majesty to the Clerk of the House, was not presented for the Royal Assent. So the Non-conformitts had no more than the bare Opinion of the Commons to shelter them from the indignation of the Crown.

Those who are pleased to assume the venerable Title of Patriots, no Answer.

viore:

those who value themselves as much on the Glory of being Loyalists, have shed their gall as freely on the Commons for their licentious Votes; and it may ferve as a general key to the modern History of England, "That Parties have never fo good a Title to be believed as when they expose each other." Ralph.

+ However triumphant the Exclusionists were like to carry their Elections in most parts of England, the appointing Oxford for the place of meeting was a most mortifying blow to them; as became fufficiently apparent by the many artifices they tryed to divert the King from his purpose. The Proclamation was but a week old, when fixteen Peers, the Duke of Monmouth at their head, waited on his Majesty, with a folemn Diffuafive, called by them their "Humble Petition and Advice." But the King frowned on the Petitioners, and gave them

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Debates in the House of Commons,

From the Year 1667 to the Year 1694.

[Monday, March 21, 1680,

HE Parliament met at Oxford, when his Majesty spoke to both Houses to the following effect: "That the unwarrantable Proceedings of the last House of Commons were the reason of his parting with them; for that he, who would never use Arbitrary Government himself, would not fuffer it in others: That whoever calmly confidered the affurances he had renewed to that last Parliament, and what he had recommended to them, his Foreign Alliances, the Examination of the Plot, and the Preservation of Tangier, and reflect upon the strange unsuitable returns made to such Propositions, by men affembled to confult, might rather wonder at his Patience, than that he grew weary of their Proceedings: That he had thought it necessary to fay thus much, that he might not have any new occasion to recollect more of the late miscarriages: That it was his interest, and should be as much his cause as theirs, to preserve the Liberty of the Subject; the Crown not being fafe when that is in danger: That by calling this Parliament fo foon, he let them fee; that no irregularities of Parliaments should make him out of love with them, by which means he gave them another opportunity to provide for the public fecurity, and had given one evidence more, that he had not neglected his part.

"That he hoped the ill success of former heats would dispose them to a better temper: That as for the farther Prosecution of the Plot, Tryals of the Lords, &c. he omitted to press them, as being obvious to consideration, and so necessary to the public safety; but defired them not to lay so much weight upon any one Expedient against Popery, as to determine that

all others were ineffectual.

"That as to what he had so often declared, touching the Succession, he should not depart from it; but that, to remove all reasonable fears of what might arise from the possibility of a Popish Successor, if means could be found, that, in such a case, the Administration should remain in Protestant hands, he should

be ready to hearken to any fuch Expedient, by which Religion

might be fecured, and Monarchy not destroyed."

Lastly, he advised them "to make the known and established Laws of the Land the Rules and Measures of their Votes; which neither could, nor ought to be departed from, nor changed, but by Act of Parliament:" And for a conclusion of all, he made use of these words: "And I may the more reasonably require, that you make the Laws of the Land your Rule, because I am resolved they shall be mine."

His Majesty then directed the Commons to return to their House, and proceed to the Choice of their Speaker, when the late Speaker, William Williams, Esquire, was unanimously

chosen *.]

[March 22 and 23 were employed in the choice of a Speaker, (fee below) taking the Oaths, &c.]

Thursday, March 24.

[Debate on printing the Votes.]

Sir John Hotham.] Mr Speaker, what I am about to move concerns us all. The last Parliament, when you were moved to print your Votes, it was for the security of the Nation, and you found it so; it prevented ill repre-

† Being led to the Chair, according to form, by two Members, he took occasion to say, "That he apprehended they had pitched on the same Speaker, because the Country had, in general, endeavoured to return the fame Members as had ferved them before: That the just sense he had of the Honour was fufficient to oblige him to do and fuffer all that flesh and blood could do and fuffer in their service: That it was a time not to fpeak much, but to act well; and that he made it his request, that their Debates might be regular and orderly, without reflections or passion, and that his behaviour might have their kind and candid construction."

And the next day, being prefented to the King for the Royal Approbation, as if to show that the House was rather rouzed than awed

by the lofty tone of his Majesty's Speech, he declared before the Throne, "That the Commons, in obedience, &c. had, with one voice, elected him to be their Speaker, to manifest to his Majesty and the World, that they were not inclinable to changes; and that he stood before him, to receive his pleafure, with a head and heart full of Loyalty to his facred Person, and armed with a fettled Refolution never to depart from his ancient and well established Government." The words of the Lord Chancellor's Reply were, "That his Majesty did very much approve the Election the Commons had made." After which the Speaker again displayed his eloquence, fuch as it was; made the usual Petitions, received the usual confirmation, and returned with the House. Ralph.

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fentations of us to the World by false copies of our Votes, and none doubted your honour in the care of it; and I am confident that this House will be no more ashamed of their actions than the last was. Printing our Votes will be for the honour of the King, and the safety of the Nation. I am confident, if it had been necessary, you would have had Petitions from the parts I come from, that your actions might be made public. As I came hither, every body almost that I met upon the road, cried, "God bless you!" I move, therefore, "That your Votes may be ordered to be printed, with the rest of your Proceedings." And I shall only add, that yourself has done so well in taking that care upon you the last Parliament, that the House will desire you to continue them in the same method.

Sir William Cowper.] That which put me upon moving the printing your Votes, the last Parliament, was false Papers that went about, in former Parliaments, of the Votes and Transactions of the House—Let men think what they please, the weight of England is the People, and the World will find, that they will fink Popery at last. Therefore I second the Motion "for printing the Votes."

Mr Secretary Jenkins.] I beg pardon, if I consent not to the Motion of "printing the Votes, &c." Consider the Gravity of this Assembly; there is no great Assembly in Christendom that does it—It is against the Gravity of this Assembly, and it is a sort of Appeal to the People. It is

against your Gravity, and I am against it.

Mr Boscawen.] If you had been a Privy-Council, then it were fit what you do should be kept secret; but your Journal-Books are open, and copies of your Votes in every Cossee-house, and if you print them not, half Votes will be dispersed, to your prejudice. This printing is like plain Englishmen, who are not ashamed of what they do, and the People you represent will have a true account of what you do. You may prevent publishing what parts of your Transactions you will, and print the rest,

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294 , Debates in Parliament in 1680.

Mr Leveson Gower.] I find that those who write our Votes and Transactions, and send them all England over, are favoured, and I believe that no Gentleman in the House will be against printing them, but Jenkins. I hope you will not be ashamed of what you do; therefore I am

for printing your Votes.

Colonel Mildmay.] By experience we have found, that, when former Parliaments have been prorogued or diffolved, they have been fent away with a Declaration against them. If our actions be naught, let the World judge of them; if they be good, let them have their virtue. It is fit that all Christendom should have notice of what you do, and Posterity of what you have done; and I hope they will do as you do; therefore I am for print-

ing the Votes.

Sir Francis Winnington.] Because what has been said by Jenkins is a fingle Opinion, for he fays, "Printing is an Appeal to the People," I hope the House will take notice that printing our Votes is not contrary to Law. But pray who fent us hither? The Privy-Council is constituted by the King, but the House of Commons is by the choice of the People. I think it not natural, nor rational, that the People, who fent us hither, should not be informed of our actions. In the Long Parliament it was a trade amongst Clerks to write Votes, and it was then faid, by a learned Gentleman, " That it was no offence to inform the People of Votes of Parliament, &c. and they ought to have notice of them." The Long Parliament were wife in their generation to conceal many things they did from the People; and the Clerk, who dispersed the Votes, was fent away, and nothing done to him. The Popish Party dread nothing more than printing what you do, and I dread that a man in 'fenkins's Post, (and such an Accusation upon him, as was in the last Parliament) should hold such a position, "That printing your Votes is an Appeal to the People."

[Resolved, That the Votes and Proceedings of this House be

printed.]

Mr Harbord.] Now you have passed this Vote for printing, I would graft something upon it. I move, "That the care of printing the Votes may be committed to the Speaker," who so well acquitted himself in it the last Parliament.

Which was ordered.

Mr Hopkins made a Motion to enquire into the miscarriage of the Bill of Repeal of a Statute of 35 Elizabeth, which, in the last

Parliament, had passed both Houses*.

Mr Hampden.] I think the Motion is to enquire after the slipping of that Act the last Parliament, and not prefenting it for the Royal Assent. For my own part, I look upon it as a breach of the Constitution of the Government. We are told that we are Publicans, and would change the Government. But such as are about to do so, it is a natural fear in them to be thought so, and they will cast it upon others. In a crowd, it is frequent for pickpockets to cry out, "Gentlemen, have a care of your pockets," that they may be more safe themselves, and have the less suspicion upon them. I will not offer this to your consideration to-day, but move you to adjourn it till to-morrow.

Sir Francis Winnington.] I shall humbly put in this word. I doubt this matter will be too big for to-day; it is of great importance, and will not be forgotten. Be

pleased to adjourn the Debate of it.

Which was accordingly adjourned to the next Day.

Sir Nicholas Carew.] I move, That, for the preservation of the Protestant Religion, and the King's Person, a Bill be brought in to prevent a Popish Successor, &c. and in particular against James Duke of York, the same Bill which

passed the last Parliament.

Mr Secretary Jenkins.] You are upon rising, and I shall not detain you long. I must give my Negative to this Motion; and my reason why I do so, is, because the King has declared, in his Speech, "That, as to the point of the Succession, he will not depart from what he has so often declared." The King has

See Vol. VII. p. 424, 5. and this Vol. p. 290. Note 1.
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given his Vote against it; and therefore I must do so too.

Mr Leveson Gower, The Duke of York is in Scotland, and I hope the King will now come up to what he has said in his Speech. My Liberty and Property are dear to me, and I will support the King's Prerogative too; and those People that are Bryars and Thorns scratch you in your intentions against Popery; which, I see, we cannot prevent without this Bill, and therefore I am for it.

Colonel Birch.] I am heartily glad to find that the zeal of the House still continues for the Protestant Religion. My opinion is, that we cannot preserve the Protestant Religion with a Popish Successor to the Crown, any more than water can be kept cold in a hot But I would do it in all the decent ways to come at it. The King recommends to you, in his Speech, to look back to what he formerly faid as to the Succession, &c." If there be no other way to prevent Popery, my opinion is, that it will be more decent to our Prince, and better for those who sent us hither, before the Bill be brought in, to give it the Honour of a Day, to consider of Expedients to save Religion, &c. for that I shall expect from some Honourable Persons; if none come, then you may proceed to this Bill with more Honour; therefore appoint a Day for confideration, &c.

Sir John Ernly.] I should not have troubled you but from what was spoken last. By all means just and lawful, we are to secure our Religion and Properties; we see the great attempts made upon us from Rome, and we must do something for our farther security. I will not speak of the former Bill against the Duke, &c. nor of the King's Speech: That gives you latitude for Expedients, and I would not offer any if I thought they would not do as well as that Bill, which is but an Expedient; but because the King has declared against that Bill, and invited you to Expedients, I would not put that Bill any more to the hazard of rejection, but think of some Expedients.

Mr

Mr Harbord.] I can fee no Expedient to fave Religion, and preferve the King's Person, but the Bill to exclude the Duke, &c. All Gentlemen, I believe, would be willing as to the manner, and save the matter; but when our Prince is encompassed with all the Duke's creatures, the Duke's safety is because of their dependencies. The danger is not from Popery, but from the King's being encompassed with the Duke's creatures. I would proceed in this matter with all decency; and since a Day is moved for, pray let us have time to consider.

Sir Christopher Musgrave.] You are invited, by the King's gracious Motion, to consider how to preserve Religion, &c. I desire that we may not now put a Question for bringing in a Bill to exclude the Duke, else properly we cannot consider any Expedients for preserva-

tion of Religion, &c.

Mr Whorwood. The confideration of preferving the Protestant Religion is a thing of that weight, that, though we have showed our zeal to it, yet I would not run upon a thing of this nature, without confideration. They who advised the King's Speech, must answer for The words of the Speech are, " If any other way can be found out, &c." I think those about the King have done enough to ruin him and us. But I would have the King fee, that we are fo far from putting him upon that stress, that we would help him out. I think that Speech, which the King did read to us, had nothing of the King's in it. He is a better man, and a better Protestant, than to do it of himself; therefore I would not put on a Resolution, here, as flat and as short as the King's Speech. The King has gone as far as this Refolution comes to, in his Declaration about Diffenters formerly, and yet he was perfuaded to revoke it-If Persons have been so prevalent about the King, as to put the King upon this Speech, let me see those Persons so forward to bring the King into a thing, to help him out; if they do not, I hope the King will lay the blame at their Doors, and not at ours. If they could have told

us what Expedients were necessary, they would have put them into the King's Speech, and the Resolution-part, of "not altering the Succession," would have been left out. A little consideration, in this great matter, can do us no hurt, and will satisfy the People without doors. But if they about the King can find no Expedients, I hope he will lay them aside, and take their Counsel no more. Put not off the consideration farther than Saturday, and if they can find us out an Expedient betwixt this and then,

it is very well.

Mr Powle.] I have always observed, that the most deliberate Proceedings have had the best success here, and the best reputation abroad. I am as willing as any man to come to this, but with deliberate steps. For my share, though I hear of Expedients abroad, yet I cannot conceive that a Title or Name can destroy the nature of Expedients. But the King, in his Speech, has held you out a handle, &c. and I would not give those about the King occasion to say, that this House is running into a breach with him. I would pay the King all the respect in the World; and you cannot avoid setting a time apart to consider Expedients, and I would not mix any thing with the Debate that Day—I think to-morrow is too soon to debate it. I shall propose Saturday for that consideration, and then let us do what is fit.

Mr Hampden.] This is a matter of great weight, and I would adjourn it till to-morrow. As for the Reason of proposing Expedients, I do not move to adjourn for that, for it is as little Reason to me to expect any as it was the last Parliament. That Parliament gave Reasons why no Expedients could be of any effect but this Bill of Exclusion, and that Parliament saw enough of Expedients. There are a great many talked of abroad in the streets, and will not you hear Expedients? What can a man say less, with any modesty? But no man can say but that we are in danger, if the Duke should come to the Crown. But the Question is, Whether you will put off this Debate? Therefore I move, "That the House will

take into consideration the security of the Protestant Re-

ligion to-morrow."

Sir Francis Winnington.] All that I shall propose is, that you would so word the Question as to have no diminution to the Motion made for the Bill, &c. upon your Books, nor any prejudice or reflection. When this Bill passed the last Parliament, it was Nemine contradicente, and most of this Parliament were of the last. As for "Expedient," it is a word mightily used, and talked of, and willingly embraced; but none have been proposed. Let this matter be re-assumed on Saturday morning, and so taken into consideration, to secure the Protestant Religion, and not to let any thing appear upon your Books, relating to Expedients, or preventing a Popish Successor.

Mr Trenchard.] I was much surprized at the King's Speech, considering your weighty Reasons for the Bill, &c. the last Parliament, and that the Lords found no Expedients effectual for preservation of Religion; but that the King may see that what we do is out of a real sense of the danger we are in, &c. and not in contradiction to him, and when nothing is found effectual to save us, that we may justify ourselves in what we do, therefore I am for ad-

journing the Debate.

[Refolved, Nemine contradicente, That this House will, on Saturday next, consider of means for the security of the Protestant Religion, and for the safety of the King's Person.]

Friday, March 25, 1681.

Debate on Thanks to be returned to Counties and Boroughs for freely electing their Members without charge.

Mr Swynfin.] When there has been a general corruption, and all have not done their duty, you should distinguish and give Thanks to them that have. As you have done to Officers for doing their duty in suppression of Popery, when, through the corruption of the times, some have not done their duty. Nothing is more parliamentary than to return Thanks, &c. and I desire that those Members

300 Debates in Parliament in 1681.

fo elected should fend their Thanks to those who chose them.

Which was ordered accordingly.

Debate on the Loss of the Bill passed last Parliament, for Repeal of a Statute of 35 Elizabeth*.

Sir William Jones. This matter deserves material confideration, whether in respect of the Loss of the Bill, or the shaking the very Constitution of Parliament. The Bill that is loft, is of great moment, and of great use to fecure the Country, and perhaps their lives too, in the time of a Popish Successor. Those men that hindered the paffing that Bill had a prospect of that, and if it be fent up again, we are like to meet with great opposition. But be the Bill what it will, the Precedent is of the highest consequence. The King has his Negative to all Bills, but I never knew that the Clerk of the Parliament had a Negative, if he laid it aside, or not. But consider, if we fend up many good Bills, if this be not fearched into, we may be deprived of them. No man that knows Law or History but can tell, that to Bills grateful and popular the King gives his consent; but if this way be found out, that Bills shall be thrown by, it may be hereafter faid they were forgotten and laid by, and fo we shall never know whether the King would pass them, or not. If this be fuffered, it is vain to spend time here, and it will be a great matter to find time to redress it. I move, therefore, "That a Message be sent to the Lords, for a Conference, that some way may be found out to give us satisfaction in this great matter."

Mr Boscawen.] I do concur with Jones, that Parliaments are prorogued and dissolved by the King, and now here is a new way found out to frustrate Bills. The King cannot take one part of a Bill and reject another, but gives a direct Answer to the whole. But to avoid that, this Bill was never presented to the King; a thing never done before! I desire that we may send to the Lords for

See Vol. VII. p. 124,5, and this Vol. p. 290. Note 1.

a Conference, to represent this innovation, and that a Committee be appointed to draw up Reasons for the Ma-

nagers.

Mr Garroway.] I was a friend to this Bill, and I agree in all things concerning the weight of it. The laying this Bill aside is such a Breach of the Constitution of Parliament, that it is in vain to pass any Bill if this be not searched into. By the Constitution of Parliament all Bills, but Money Bills, after they have passed both Houses, are deposited in the Lords hands, and it is below you to look after the Clerks for this Bill. If the Lords give you no Answer for the loss of this Bill, that is satisfactory, I would then send to them to know the reason why the Bill was not tendered to his Majesty with the other Bills.

Sir Robert Howard.] I would have you fearch the Lords Journals, and if you find no account of the Bill there, then it will be time for us to go to the Lords, &c.

Sir Richard Temple.] I have not much to offer you, but I fully concur in the weight and consequence of this matter, and you are to take all the care that can be to secure it for the future. Never any thing of this nature was done before, but the Bill for the better observation of the Sabbath, in the late Long Parliament; it was left upon the Table, at a Conference, and stolen away. It is not proper to take notice of this in a Message to the Lords, because the miscarriage of this Bill was in another Parliament. The matter must go upon the desire of a Conference, concerning the Rights and Privileges of both Houses of Parliament, and then you may appoint a Committee to inform you of the progress of this matter.

Mr Vaughan.] I think the passing over the enquiry after the loss of the Bill of the Sabbath was the great occasion of the loss of this. Consider how many interruptions Parliaments have had, of late, in the greatest businesses, by Prorogations and Dissolutions; and another way to gratify your Enemies is to stifle your Laws when they

have

have a mind the People should have no benefit of them; though they have passed both Houses; therefore I move, &c. as before.

Sir Henry Capel.] I only differ as to the words of the Message. I do agree to desire a Conference of the Lords, where I would have no more said, than "to desire to know what is become of the Bill." The Lords are the depositaries of all Bills, but those of Money; and without any other words, I would send for a Conference, to know what is become of the Bill. I know of but three Negatives to Bills, but by this, there is a fourth; which will destroy the Government.

Sir Francis Winnington.] You are not ripe yet for the Debate, only for enquiring after this Bill, which had no Answer from the King after it had passed both Houses. Therefore I would only desire to know of the Lords what is become of it. Put the Question, therefore, plainly up-

on the Bill.

Colonel Titus.] In things of this nature, it is the best way to observe old methods, and the best method to know one another's mind is by Conference. I remember, the Lords once sent to us for a Conference, where they told us the House was falling on our heads. The Lords sent us not a Message, "That the Roof was falling and dangerous," but they sent for a Conference "on a matter of great consequence;" therefore I would now send to the Lords for a Conference "about matters relating to the Nation."

Mr Hampden.] I would fay this in the Message; "That we desire a Conference with their Lordships concerning the Constitution of Parliaments in matter of passing Bills."

Refolved, That a Message be sent to the Lords, desiring a Conference with their Lordships in matters relating to the Constitution of Parliaments in passing of Bills: [And a Committee

was appointed to prepare the subject-matter.]

Sir Thomas Lee.] This is a thing of as high weight as you can confer upon; therefore I would not do less in this than in a thing of lesser moment. Let your Committee

mittee meet, and you agree on the subject-matter. Till then, I know not what to say at a Conference, and that will be *Monday*, at soonest. I would offer another thing to the Lords at the Conference, the consequence of this way of proceeding; and desire that their Lordships would put this thing into examination, and find out the accomplices for punishment, and, at the same time, to desire a Committee of both Houses to consider where the miscarriage lies.

Sir William Waller gives an account of the Discovery of Fitzharris's Plot +; and Sir George Treby reads his Examination.

Debate thereon.

Sir William Jones.] I like the Motion well for printing Fitzharris's Examination. There is nothing in this Paper,

† A few days before the King went to Oxford, Fitzharris, an Irijh Papist, was taken up for framing a malicious and treasonable Libel against the King and his whole Family. He had met with one Everard, who pretended to make difcoveries, and, as was thought, had mixed a great deal of falshood with fome truth; but he held himself in general terms, and did not descend to fo many particulars as the witnesses had done. Fitzharris and he had been acquainted in France; fo on that confidence he showed him his Libel; and he made an appointment to come to Everard's Chamber, who thought he intended to trepan him, and fo had placed witnesses to overhear all that passed. Fitzbarris left the Libel with him, all writ in his own hand. Everard went with the Paper, and with his witnesses, and informed against Fitzbarris, who upon that was com-But feeing the Proof against him was like to be full, he faid, " the Libel was drawn by Everard, and only copied by himfelf." But he had no fort of Proof to Support this. Cornifo, the Sheriff, going

to fee him, he defired he would bring him a Justice of the Peace; for he could make a great discovery of the Plot, far beyond all that was ever known. Cornish, in the simplicity of his heart, went and acquainted the King with this: For which he was much blamed; for it was faid, by this means that difcovery might have been stopped. But his going first with it to the Court proved afterwards a great happiness both to himself and to many others. The Secretaries and fome Privy-Counfellors were, upon that, fent to examine Fitzbarris; to whom he gave a long relation of a practice to kill the King, in which the Duke was concerned, with many other particulars which need not be mentioned; for it was all a fiction. The Secretaries came to him a fecond time to examine him farther: He boldly stood to all that he had faid; and defired that some Justices of the City might be brought to him. So Clayton and Treby went to him; and he made the fame pretended discovery to them over again; and infinuated, that he was glad it was how in fafe hands but what is fit to be printed; and what fully makes out what we have heard before, and because we all know, that, fince Lord Stafford's Tryal, People have been prevailed upon to believe the Plot not true. This Paper confirms Oates's, Bedlow's, and Prance's Informations; but I would not have that Paper printed which reflects upon the King.

Mr Secretary Jenkins.] I will not trouble you, but with what part I had in this affair. The scandalous Paper reflecting upon the King was read over to his Majesty by Waller; whereupon I issued out Warrants to apprehend Fitzbarris, &c. and Waller saw the Execution of

them.

Sir Francis Winnington. This is of great importance, and in it we ought to acquit ourselves like wise men. We, that come out of the Country, hear that the treafonable Paper should have been sent to many Gentlemen, and then they should have been seized upon as Traytors in the Conspiracy in this Plot. All is now at stake; therefore how long or short a time we are to fit here, (the Trooper, Harrison, that was seized, said, "We should have other Guards at Oxford than we had at Westminster,") let not our courage lessen. This being our case, let us go to the bottom of this business of Fitzbarris. It has been moved, "That he should be sent for hither;" but we have experience, that, when once an Accusation in Parliament is against a man upon Record, and in the greatest Court in the Kingdom made known, malefactors have not been cleared, and have not had Justice; therefore I move, "That you will take care that this man be impeached of High-Treason," and, it may be, then he will tell you

was highly offended with this, fince it plainly showed a distrust of his Ministers; and so Fitzbarris was removed to the Tower; which the Court resolved to make the Prison for all offenders, till there should be Sheriffs chosen more at the

King's devotion. Yet the deposition made to Clayton and Treby was in all points the same that he had made to the Secretaries: So that there was no colour for the Pretence afterwards put on this, as if they had practised on him. Burnet.

Sir Robert Clayton.] When Mr Recorder and my-felf examined Fitzbarris in Newgate, he asked us, "Whether he had said enough to save his life?" We told him, "We thought not; but if he would ingenuously confess what counsel he had for drawing and modeling his treasonable Paper, and be ingenuous in the whole, we would take his farther Examination;" and wished him to consider of it. But, the next day after he promised he would, he was removed out of our reach to the Tower.

Refolved, That Edward Fitzharris be impeached of High-Treason, [in the name of all the Commons of England;] and that Mr Secretary Jenkins do, to-morrow morning, go up, and impeach him at the Bar of the Lords House.

Mr Secretary Jenkins.] The fending me up with this Impeachment reflects upon his Majesty, my Master, in the character I bear under him; and I will not go on the Message.

Agreat cry, " To the Bar, To the Bar."

Sir Thomas Lee.] I would not have said one word, but that the very being of the Parliament is in the case. It is to no end to sit here any longer, if this be suffered. Jenkins had no ground or reason to bring the King's name in question, nor was there any reflection upon his Majesty, or Jenkins, in sending him with the Impeachment. But, for Jenkins to say, "Do what you will with me, I will not go with the Message!" Let his words be first afferted, and read to you, before he explain them, according to the Order of the House.

Sir George Hungerford.] I never heard fuch words uttered in Parliament before, "That the whole House of Commons should reslect upon the King in sending him with the Message," and "that he will not obey your commands." Pray call him to the Bar.

At which there was a loud cry, "To the Bar, &c."

Mr Trenchard.] The House will grow contemptible to the extremest degree, at this rate. Such a thing was never before in Parliament, "That the whole House Vol. VIII. should reflect upon the King," and for him to fay, "Do what you will with me, I will not go."

Mr Secretary 'Jenkins. I said no such thing, "That the House reflected on the King," but "That I take it

as a reflection upon the King, my Master."

His words were thus stated, "This Message had not been put upon me but for the character I bear-I value not my life nor liberty; do what you will with me, I will not go."

Mr Secretary Jenkins.] I faid "That this is put upon me, to my apprehension, for the character I bear; and

do what you will with me, I will not go."

Sir William Jones.] I am forry to see any Member behave himself at this rate. This confirms me in the opinion of the defign fome men have to depress the honour of this House. A Book has been written by a Member of this House + (which, in time, I hope, you will consider of) "That the House of Commons, in Hen. III's time, fprung out of Rebellion." This goes on this day in the fame method. Let a man be of what Quality he will, if he be too big to carry your Message, he is too big to be your Member, and not fit to be chosen for one. Thus to fcorn the commands of the House, and to be too big for a Messenger of the House of Commons! Secretaries are fent on Messages every day, and is he too big for this, to accuse a person of the Popish Plot? If this be so, fit no longer here, but go home. His character is great, but he may be privy to things hid from us, possibly, by this extraordinary carriage. Is it come to that pass, for us to be dealt withall as none of our predecessors ever were before. If my brother, or fon, dealt with the House thus, I would have him made an example; and, for aught I fee. he provokes you more by his explanation; therefore pray go on.

Mr Secretary Jenkins.] I am ready, and I think myfelf as much obliged as any man, to obey the Commands of the House. The Office I have under his Ma-

Doctor Brady, who served for the University of Cambridge.

jesty excludes me not; but the thing I stand upon is, That the Motion was carried on in Ridicule. I have an honour for this, and ever have had for all Houses of Commons, but in this Message I must and will be excused.

Sir Henry Capel.] "Ridicule" is not a word proper for a House of Commons: What is appointed by them is with all gravity, especially where the life of a man is concerned, as it is in an Impeachment. in an unfortunate age; now things come to light, more than we were before; that now it must be said, "Impeachments of Treason strike at the King," and "the Bill of excluding the Duke, &c. is levelled at the King," I am forry it is faid here, as well as in other places. This that we put upon Jenkins is an Employment for the King's Service, and he tells us, " It reflects upon the King, and he will not go." All the Commons do will be reversed, if this must pass for doctrine, "That what we do reflects upon the King." But, Sir, we are in a Ship, and we have to do with the Master, and he with us. If this Gentleman would make any fort of Excuse for himself, I would, for my share, pass it by; but he has not taken it off, but rather aggravated it. If he has nothing farther to fay for himself, he must withdraw, and then I shall make a Motion, for the Honour of the House.

Sir Thomas Meres.] I know no difference of any perfons here; if Jenkins said, "I thought sending me with the Impeachment reflected on the King; and in case it be so, I will suffer any thing under that reslection," a man may be mistaken in his thoughts: But, as I take it, he said, "It was his thoughts that the Message was a reslection upon the King, and in that case he would suffer any thing rather than a reslection upon the King in the Character he bears."

Sir John Ernly, after he had inspired Jenkins with a whisper, said, It is an ill thing to stumble at the entrance. I do hope that fenkins intended no differvice to the House, in what he said, but on a perfect mistake.

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I did

I did apprehend, and so did some others, that he was put upon it, by the Gentleman that moved it, in jest (Mr Coningsby.) But be it in jest, or in earnest, he ought to obey your Order; but every man cannot subdue his own heart. But I would know of Jenkins, whether, upon farther consideration, he will undertake this Service, or no? I am the worst advocate in the world for an obstinate Person; but I humbly offer it to your consideration to put the Gentleman upon it, whether he will go, or no, before he withdraw.

Mr Secretary Jenkins.] Since the House is so favourable as to hear me, I must say I did apprehend it a reflection upon the King, which was the reason why I resused the Message: But if I apprehend it a reslection upon the King my Master, I am heartily forry I should incur the displeasure of the House, and I hope you will pardon the freedom of the Expression, of reslection upon the King. I had no other consideration whatsoever that induced me

to fay the words.

Mr Fleetwood.] I look upon this as so great a reflection upon the House, from this Gentleman, that he ought to come upon his Knees, at the Bar, to ask pardon.

Mr Boscawen.] We are all subject to infirmities. Seeing the thing is so, Jenkins could not apprehend any reflection upon the King in the Message, but he might upon himself. The thing was a little smilingly moved; but since he has explained himself, I would have this passed by, as I should desire for myself, upon the like occasion.

Lord Cavendish.] The Gentleman's fault is a great one; but after he has now begged the pardon of the House, and that he is ready to obey the Order of the House, I am willing to pass it over. Though it be a great fault, yet it is too little to give occasion for a breach, at this time.

Mr Secretary Jenkins.] I am ready to obey the Orders of the House, and I am very forry that the words which fell from me, gave the House offence.

And so the thing passed over, and he carried the Message.

Colonel

Colonel Birch. For the discovery of this Plot of Fitzbarris we ought all to give God Thanks, next to the difcovery of the Popish Plot. This is a great service to the Nation, and it is not the first service that Sir William Waller has done the Nation. If ever the Thanks of the House were deserved, it is for this discovery; therefore I move, "That he may have the Thanks of the House."

The Thanks of the House were accordingly ordered to Sir William Waller *.

Saturday, March 26.

Debate on the means for the Security of the Protestant Religion, and for the Safety of the King's Person.]

Sir Robert Clayton.] I must confess, I have been full of expectation for an Expedient, in some measure to secure the Protestant Religion, and the King's Person, in case of a Popish Successor, and my expectation has been from those Gentlemen who opposed the Bill for excluding the Duke of York from the Succession of the Crown, and I can call that no otherwise than "an Expedient." I have, in my weak judgment, weighed all the Expedients I have heard of, both in the Lords House, here, and abroad, but they feem all to be a breach of the Constitution of the Government, and will throw us all into confusion and disorder. I have heard, that it has been an ancient usage for the Members to consult their Counties, Cities, and Boroughs, in any other matter of weight, as well as in giving Money; and the practice was good, and we can discharge our trust no better, than to observe the directions of those that fent us hither. We, who reprefent the City of London, have received an Address from the body of that City in the matter of the Bill for excluding the Duke of York. I could heartily wish that some Expedient may be found out rather than that Bill; but if there be none, I must pursue my trust, and humbly move, "That a Bill may be brought in to disable James

This is not mentioned in the Journal.

Duke of York from inheriting the Imperial Crown of this Realm."

Lord Russel.] I have the same obligation upon me, from the County I serve for, as the Gentleman who spoke before me. I have been long of opinion that nothing but excluding the Duke, &c. can secure us. In the last Parliament, we were of opinion, "That the Duke's being a Papist gave all this encouragement to the Plot." Should he come to the Crown, his power will be more, and every day we see the sad consequences of his power. I should be glad if any thing else but this Bill would secure us from Popery, &c. but I know of nothing else that

will; therefore I move for it.

Mr Montagu. The Security of the Protestant Religion. and the Safety of the King's Person, are things of so great weight, that we should not have stayed so long as this day, to take into confideration the Exclusion of the Duke of York from inheriting the Crown, &c. I am forry to hear of the King's giving us Expedients to fecure the Protestant Religion: I am forry to hear that language. This is not to be used as an English Parliament, but a French, to be told in the King's Speech what we are to do, and what not. The greatest Arbitrary Power that can be used in England, is to cow a Parliament, and, it may be, that was the defign in bringing us hither. But be we called to York, or all England over, we shall, I believe, be the fame men, both as we are here and were at Westminster, in our opinions. When Lord Danby dissolved the Long Parliament, he faid, "He had spoiled the old Rooks, and had taken away their false dice." Soon after him, started in new Ministers of State, and they shuffle and cut the cards again, and will diffolve and prorogue Parliaments, till they can get one for their turn; and in this condition we are—As for the Bill of difinheriting the Duke of York, were my Brother or my Son like to ruin my Family, I would difinherit them, and turn away fervants that would ruin me. If the Bishops and the Counsellors had spoken plain English to the King, things would not have been in this condition, and they cannot answer

answer deferring our security so long. But neither these Ministers of the Gospel have endeavoured the preservation of the Protestant Religion, nor the Ministers of State the Government, both acting against Religion, and the Preservation of the King's Person. And seeing no Expedient can serve us, but the Bill for excluding the Duke, &c. therefore I move for it.

Mr Henry Coventry.] If you intend to proceed with that regularity and circumspection as ought to be, you have transgressed the Order of the Day already. Several Gentlemen tell us, there is no Expedient, but none tell us what is. All men believe, that the Religion of the Duke is as fatal a thing as can be to the Nation. What does he deferve, then, who perverted him? Let us consider, then, in what depends upon this House, to proceed like men. If it be our opinion that excluding the Duke, &c. be the best way, this House cannot do it alone. If we cannot have that best way, we are guilty to our Country of the confequences, if we take none. Suppose a man be fick, and nothing must be taken by him but by the order of three Physicians; the Jesuits Powder is by two of them thought fit to be given him, but one is against it, and does the duty of his opinion; but because the other two do not agree to it, must the fick man take nothing? We are but one of the Legislative Power. I remember, in the Dutch War, several Expedients were proposed to raise Money, and the House, for the more freedom of Debate, went into a Grand Committee: A man, whoever he be, that proposes an Expedient, will defire leave to make good that Expedient in a Grand Committee; but when it comes to that, if that man have no Expedient, and loses your time, he will be trampled upon. A Grand Committee is most proper for this Debate, and if it should happen which Question should take place, if one be denied, the other may take place, but not any one to be put to exclude the rest, which, if you put a Question for bringing in a Bill to exclude the Duke, it will do-Let it be Exclusion, Limitation, or what it will, your Order is general. Find X 4 out out a way to secure us from Popery, and preserve the King's Life, be it what it will. When men press on too fast, many times they tire their horses, and come late into their Inn. Let a Committee try Expedients, &c. else it is not consultare, but dicere. I am of a contrary opinion, of debating this matter in the House, for this reason, and if Gentlemen will do reasonably, the House

should go into a Grand Committee.

Mr Swynfin. You have had Motions proposed for Expedients, but there is not a word of Expedients in the Order of the Day, and that answers it. The Order is only, "To consider of Means for the Security of the Protestant Religion, and for the Safety of the King's Perfon." Those who were here present when the Order was made, have left it free for a Bill, or any other thing, and therefore we are not tied to have Bills, or to offer Expedients against Bills. As for the simile of "the three Physicians," made by the Honourable Gentleman, that two were to administer nothing without the third, though one be for one thing, and another for another, yet if the case be such, that the two offer nothing but what is mortal to the Patient, he ventures to his own difreputation, if he joins with them. However, in our case, the three Physicians do not agree. We never faw any thing from the Lords in answer to the Bill for excluding the Duke, which they threw out, the last Parliament. All the Expedients have been to increase the fears of the Kingdom, and to hasten our undoing; and when all was at stake, the Parliament was dissolved, and that was an ill Expedient. And those about the King who have come over to our opinion of the Bill, &c. are all put away, and those about the King now are for Expedients. The Council of the Jesuits and all the Popish Party have their end, by thus disappointing the Kingdom; and the fears of the people are either that they must take up with a false security for their Religion, as good as none, and so to impose Popery upon us that way, or to bring the Kingdom into disorder; and when Religion and the Laws are at the Duke's disposal, the Kingdom will be in fo great diforder, that the Protestants will not be able to enjoy themselves quietly; and no furer way for the Papists to effect their end-For the House to go into a Grand Committee, it is a Motion of great weight; if you deny it, it will look as if you intended to precipitate, and deny free Debate; if you accept it, you lie under delay, and who knows how long time we have to be together? If you were fure of your time to fit two, three, or four months, I would be willing to go into a Grand Committee; but as to the ill umbrage of refusing a Committee, it is not like other cases. I would have an instance given me, if ever it was done in a thing of this weight. This matter in confideration to-day has been in two Parliaments, and the whole Kingdom is fatisfied, that nothing but the Bill to exclude the Duke can fave us, and it was the opinion of the last Parliament; what reason, therefore, is there to go into a Grand Committee for a thing fo often debated? No man can deny, but that a Grand Committee, when there is fomething offered of an Expedient, is proper, to debate it with the more freedom; but to offer Expedients generally, is as if the thing had never been confulted nor debated before. I never faw any Expedient offered, but this of excluding the Duke, and I never heard of any Reason against the Bill, but "Set it aside, and think of Expedients." Therefore I am for the Bill, &c.

Mr Levejon Gower.] If any Gentlemen have Expedients to preferve the Protestant Religion, without this Bill of Exclusion, they would do well to propose them, and they will deserve well of the House; and if they seem to them to give security, &c. I should be glad to hear

them.

Sir John Ernly.] When the Motion was first made for considering Expedients, &c. I did then second it, because of the honour of the Place I serve in. I did understand by the King's Speech, that there were Expedients, &c. I am unwilling to determine the sense of any Gentleman, who am myself of the weakest; but the Motion was seconded, to go into a Grand Committee to consider

Expe-

Expedients; and if you please to do so, I then shall offer

you fomething.

Mr Bennet.] I rise to speak against the Question of going into a Grand Committee. Pray keep to the Order of the Day. Expedients that have been moved, already, are Jesuits Powder for an Ague; but our disease is a Pleuresy, and we must let blood—Let the Expedient go to what will do our business; and, it may be, you must have other Expedients to fortify your Bill of Exclusion. I would have the House rightly understand, that those who are for going into a Grand Committee to consider Expedients, are not for excluding the Duke, and they who are not, are for it; and now put the Question, if you please.

Sir Francis Russel.] A Bill for excluding the Duke is a good Expedient; let both that and others, as they are

proffered, be considered.

Sir Thomas Meres. If but one Expedient be offered, I think it not proper to go into a Grand Committee to confider it; and although this Bill of Exclusion is agreed to be an Expedient, I have known the House, in a business of less weight, go into a Grand Committee. if it be offered as an Expedient in the House, you cannot but allow that we may make reply, as in a Grand Committee, in fair Debate to answer one another, and if you in the House will depart from that form, the House and the Committee are equal. But our Debate is broken; for one Gentleman faid, "He will be content to go into a Grand Committee, if it be not intended for delay." But I do not doubt, but that this day will have its full effect. When on Thursday last it was moved for this day to take into confideration the prefervation of the Protestant Religion, &c. it gave a great credit to your work. I would have no discouragements put upon people that have Expedients to produce, by not going into a Grand Committee.

Mr Hampden.] We are perplexed in having feveral Questions on foot. I must put you in mind that this Bill is no new nor strange thing; and now it is proposed to find

will

find out Expedients to preserve the Protestant Religion, &c. Here is a way, by this Bill of Exclusion, that has passed two Parliaments already; a way, that had no reafonable objection against it; and a way rejected in gross by the Lords, in the last Parliament; but I doubt, if other Expedients be tryed, and they prove false, the Protestant Religion will be endangered by it—Some have faid, that Gentlemen apprehend they have Expedients; why then, if any be propounded, may not the House judge whether they are worth going into a Grand Committee to confider them? But it is strange that, if Gentlemen may not have it their own way, they will not have it at all. I tell you how this looks; as if a Gentleman has Expedients and will offer them his own way, or nothing any other; he does not discharge his duty to his Country in that. Therefore, if there be any Expedient, pray, without losing time, let it be offered.

Sir John Ernly.] If the House be of the mind not to go into a Grand Committee, I shall offer my little mite; and it is every man's duty to offer you his help. doubt not but other men have Expedients, and better than I have; but if you go not into a Grand Committee, I shall offer what I have. I do apprehend, that the Bill spoken of is a bar to the Succession of the Duke of York, and to place the Succession in the next Heir. I humbly conceive, that, if you place the Power of the Government in a Regency, and let the Duke of York retain the name of King, it is no new thing. It has been done in Spain, France, and lately in Portugal, and God knows how foon it may be our case. If the Administration be placed in a fafe hand, that shall have no power to refign it, and shall have full power and authority, from the death of the King, to call again the last Parliament that fat, and that that Parliament shall have time to fit, to confirm this by Parliament; if fuch a way can be contrived, I hope it may be done with fafety.

Sir Nicholas Carew.] This Proposition is, "That the Government, after the death of the King, may be in the hands of a Regency." I would be satisfied, if the Duke

will not fubmit to that, whether those who fight against

him are not Traytors by Law?

Sir William Pulteney. I think this, that has been proposed, is a matter of weight, and some Expedient has been offered you, but I think as yet but a crude one. I can never imagine an effectual one. Ernly has told you, "That this Expedient, when drawn into better form, he hopes will fatisfy." It excludes the Duke of York from the exercise of the Government, and places the Regency in the next Successor, but the Bill for excluding the Duke, &c. in the last Parliament, left the Succession in the Law. But pray consider what is a Regency. A thing never heard of but in a Prince in possession of the Crown, in a Minor, or a Lunatic, but generally very unfortunate. But to talk of a Regency in future, in Condition and Limitation of time, I never heard of before. This is an Expedient that does not answer the King's Speech, nor your former Bill—By this Expedient they make the King but a shadow, and divide the Person from the Power. Our Law will not endure it to divide the Person of the King from the Power. Both the Person and the Power will be courted, and who that next Heir will be, I know The King, in his Speech, leads you to confider Expedients, but fuch as will confift with the fafety and dignity of the Monarchy. This Expedient must be, to have two Kings at the same time, one by Law, and another by Right. In Portugal there has been some instance. of this. That King was put into prison for some personal miscarriages, and his Brother, the next heir, was made Regent: But there is a vast difference betwixt these two cases; the King of Portugal was set aside for personal miscarriages, and not for being a Papist, and that was present, this to be. This Expedient seems to me, to let the Duke in, and then to make a question, Whether Allegiance be due to him, or not? But I am afraid, that, unless we be true to those we serve, we shall deserve a just reproach; and by express directions of those I represent (Westminster) I am enjoined to adhere to the Bill of Exclusion. That Bill has been under the consiconsideration of all the People of England, and perhaps of all the Protestants of Europe. All the wits of learned men have made their objections against it, and yet, notwithstanding, all the people are still of the same mind, that nothing but that Bill can save the Protestant Religion; and now we run upon the most mishapen Expedient, and, it may be, two or three years before we understand it: An Expedient to have an operation no man knows when; of very little weight, unless it be improved by somebody! Therefore I am for

the Bill of Exclusion, &c.

Sir Thomas Littleton. We are flying at a great matter. All conclude, to fight against the Duke, if he be King. God forbid! We have been told by three or four Gentlemen, of directions they have from their principals to adhere to the Bill of Exclusion, &c. and to be against all those things of Expedients. I would not have that way much cherished here. Those Addresses of the Country are uncertain things, and no footsteps remain of any of those Papers from the Countries. I take the meaning of that to be, to go down and confult their neighbours for direction what they shall do. I hear talk to-day of the Parliaments of France, but this way is as dangerous; like the States of Holland, who are to confult with their principals before they resolve. It is a most unusual thing here, and of dangerous consequence—A Regency has been propofed, to fecure the administration of the Government in Protestant hands, so as not to alter the Constitution of the Monarchy; and this alters the Constitution of the Monarchy the least imaginable, to have a Regency in room of the King, and the Monarchy goes on. We have had formerly a Regent-Protector, call it what you please, in the nature of a Protector, primus Confiliarius in the case of a minor King; but I propose not this. If you alter the Government, I am against it; but here is offered a Regent in place of a King, or a transferring the Government. But it may be faid, "Where shall the Duke be all this while?" That point is pretty well over. The Lords, in the last Parliament, proposed the banishing him fix hundred miles from England. The Duke has an Estate in England; he, as all men else do, loves it, and will not part with it by coming into England, against this Law. But your Bill of Exclusion secludes the Duke, and the Crown then is to fall, as it does fall. What then will be the case? You must imagine either that his own Daughter will take up arms against him, if he attempts to regain the Crown, or fomebody elfe will; and this will raise fuch an anger in the Duke's mind, that where will the People shelter themselves? Not under the Duke's Daughter; they must naturally shelter themselves by running into arms. Cromwell's way to support himself in his usurpation was an Army of 60,000 men. And he did do it, especially when his Army was flushed with victory. And an Army that has got power will keep it—The Nation is not in the condition it was formerly, when great Lords cherished their Tenants, and by good Leafes could prefently raife an Army, and when they had accomplished what they defigned, fend them home again—But we are now in another way; raise an Army, and they will think of their own interest how to keep themselves up. But if it fall out to be thus, your Bill will leave this very loofe. As foon as this Bill of Regency shall pass, suppose the Regency be established in the Princess of Orange, and in case of her decease without issue, or issue in minority, then the Lady Anne, the Duke's other Daughter, to be Regent, and in the same Law, Commissioners to be forthwith sent to the Prince and Princess of Orange to take their Oaths, that they will take upon them the execution of this Act, and that their Oaths be recorded; you then are not left in that loofe manner you will be by the Bill of Exclusion; and it is a far less matter for the Princess to save a Family, before misfortune come upon it, than to take the Government upon her afterwards, in the height of trouble and disorder which may ensue upon the Bill of Exclusion—But it may be said, "What needs all this? It is just nothing but retaining the name of a King, in an exiled man." But it is less violation for her, to govern in her Father's name, than to have the Kingdom

dom given her, from him-It may be wondered why, in Portugal, when the King was to be removed from the Government, there was a great Debate amongst the three Estates of that Kingdom, (though they hold not proportion as they do here,) the Commons were for Don Pedro to be King; the Nobility were for having him Regent only; the Ecclefiastics demurred: But at last both the Ecclesiastics and the Commons came over to the Nobility: But Don Pedro stuck here, and would still leave his Brother the Title of King: He would leave nothing of shelter to force nature too far. I find that there are referves in the King's Speech, if it be well obferved. Another thing may be objected, which is, paying a deference to the Crown for the facredness of it. for the Government's fake; and that looks like fomething; and how can we be fecure, when it is Treafon to take up Arms against the King? But the Duke is like to be five hundred miles off; and how came that Law to be made, that the King and Parliament may dispose of the Succession of the Crown? It was then an opinion amongst Lawyers, that the Crown was unalienable: But when that Law was made, for the King and Parliament to dispose of the Succession of the Crown, that Opinion was damned under a Penalty, though a standing maxim amongst Lawyers. If so, this new Act of Regency will be a warrant to what is proposed, as that was for the other. For my part, I have had the ill fortune to have the wind in my face; to be against the general opinion and stream of the World; and having had no share, for some time, in the Government, I may speak my mind, possibly, more freely than they that have-It is a great Crime to fpy things too foon, which makes us apt to run from one extreme into another—I have proposed the best Expedient I can to preserve Religion, and quiet the minds of the people; but I am afraid, if we do nothing at all in this matter (I will grapple with neither of the Expedients) but if we do nothing, but let the thing lie loofe, we shall gratify the Jesuits, on the one hand, by our confusion, and the CommonCommon-wealth's men to shuffle again, on the other hand; and if you go into some medium, both these men will be undone.

Sir William Jones. I have heard with great attention this very able and learned Gentleman, and am really of opinion that, if any better Expedient could have been proposed, he, as soon as any Gentleman, would have proposed it; but I am amazed that so learned a Gentleman should not see through this Expedient. That which I take for the Expedient is, "That, should the Duke of York come to the Crown, he should retain the name only of King, and that the next Heir, under the title of Regent, or Protector, should have the administration of the Government." Who does he mean by "next Heir?" For any thing I know, or believe, it may be the Duke's Daughter, but, it may be, the Duke may have a Son. Either I have a great cloud on my understanding, or this is very strange; if the Duke shall have a Son, and shall he at a day, a month, or a year old, be Regent? Suppose the Princess of Orange come over to be Protector to this young Regent, and she die, and leave a child (the Prince of Orange has no right) that child must have a Protector, and fo there will be a Protector of a Protector. But we are told," That it is for nothing, but to keep up the greatness of the Government, that makes them go from the Bill of excluding the Duke to this Expedient." pray, is it fo great and pleasing a thing to wear a Crown, and have no authority nor power? Is it not much worfe than to lose the actual Crown and Possession? But if this Expedient pass into a Bill, and the Duke be banished five hundred miles off, it must be out of England, and if the name of King will please him in civility, beyond fea he shall be King, and it is as much to his purpose beyond fea to be called King only, as here: And to tell us, "That the forfeiture of his Estate upon his return will keep him there;"-he that will venture the loss of a Kingdom for his Religion, will his Estate too, and that is but a weak tye. It is less evil or injustice to take away from him both the Crown and Power than to leave him of both but the name. If you allow the Duke the name of King, it will imply a right; therefore that to be used as an argument, is strange. But why is this contention, and all this ado, I wonder, for an empty name? But I am afraid this kind of Expedient is a kind of Fefuits Powder. I do not think that Littleton's opinion or interest is for the Jesuits; but wise men may overdo things some-But if you do not exclude the Duke's title by Law, the Duke is King still, and then learned Lawyers will tell you, that, by the 1st Hen. VII, all incapacity is done away by his being King. If you take not away the descent of the Crown upon the Duke, and the Duke has a title to be King, then, without doubt, all incapacities fail. But if this can be made effectual, I am as willing to exclude the Duke's power as name; but Lawyers will tell you it cannot be done. But there is a great difference betwixt the one and the other. When the Lady comes to be Regent, not only nature, but conscience, will bid her give unto Cæsar his due, being not incapacitated to fucceed, and perhaps that Text some of our Divines will preach upon. They will fay, "That the Parliament, by what they have done, do acknowlege the Duke to have a good title." But if he be King, as the Parliament allows him to be, in Name and Right of Descent, an Argument like this in Queen Mary's time had like to have restored to her the First-fruits and Tenths. Another thing, perhaps, came from those men who first proposed the Expedient (I will not believe that it originally came from Littleton,) "That if we had passed the Bill of Exclusion in the last Parliament, it would not have been submitted to;" but if this Expedient pass into Law, and the Duke have a Right to be King, and be kept from the Administration of the Government, I doubt whether I shall fight against him. The Papists will fay, we have got a Law to feparate what is infeparable; and I would, were I as the Duke, have fuch a Bill to perplex my oppofers, rather than a clear one. Littleton tells us of "an Army to maintain the Exclusion, and that that Army will not foon be laid down." VOL. VIII.

But why an Army? People will be fure that the Lady will let her Father in, if he have title; but will the People be fure of their Religion, if he have title and power too? If there must be an Army to maintain the Bill of Exclusion, there must be four Armies to maintain the Expedient. There has been a Protector proposed, &c. not like that of Edw. VI, who was little more than our Lord President of the Council: But certainly they who proposed this Expedient, intended the same power in the Regent to let the Duke in as to keep him out. Therefore pray lay aside this Consideration, and take up that of the Bill, as has been moved.

Mr Leveson Gower.] I think it fit that you should present Reasons to the King for passing this Bill for excluding the Duke, &c. I do think that the Administration of the Government has been in such hands, since the King came in, that, though the Ministers have been shifted, yet the same Principles of Government remain to this day. The Triple League has been broken, and the Smyrna Fleet seized, before we had open War with Holland. The King of France made War with Holland for his glory, and our Ministers, to get Taxes from us to make the King absolute: Such violations, as never were done, upon the

Rights of the People!—

He was called to Order by

Mr Vaughan.] A Question so extremely well spoken to as was the last, to be interrupted with any angry Question, is not decent at this time. What the Gentleman urges is a matter to be enquired into another time, though the Gentleman, I believe, does it with a worthy intent. If any Gentleman have anything else to propose, of the matter now in Debate, pray hear him.

Mr Leveson Gower goes on.] I intended, from what I said, to move you to present the King with Reasons to pass the Bill of Exclusion. The shameful Retrenchments in the King's Family arise from the Duke's Creatures; and it is not safe for the King to part with any one of his Ministers, unless he parts with them all. These that retrench

trench the King's Family, do it to get together a Bank of Money for a Popish Successor, and then will be their time to take away the King.

Sir Francis Winnington.] This we are upon is a thing of great weight, though not of difficulty. Pray let any man maintain that this Expedient has been proposed, or

give you a new one.

Sir Thomas Meres. I have heard this Expedient debated with patience. This Expedient has been well offered, and, I believe, mistaken by the Gentleman that answered it. I must say, this is your Question; your business is Religion, and I have given as good testimony of fincerity to the Protestant Religion, these twenty years, as any man has; and I have been for this Bill of Exclusion, and I am of opinion, that fomething must be done for the People, to quiet their fears of Popery. But for the Point of Law mentioned; if the Law be fuch, that Dominion must run with the name of King. that fingle Reason is to carry the Debate; but if they answer not to that, I am at an end. But, sure, those words that can difinherit a King may make this Expedient Law. I would not rife now to speak, if I thought that this Bill of Exclusion would pass the Lords and the King. My grounds are but conjectures. last Parliament, I did believe that the Bill would pass, with greafing the wheels. Our condition of England is thus: We do need one another; the King and the People had need make use of Parliaments to affift one another, to relieve us in the difficulties we are in. If the Duke be King, he will need a Parliament, and fo will his People. In order to this, if there be any other Expedient like this, though not the fame, which no objection of Law could destroy, if any Gentleman would produce fuch a one, he would do the King and Kingdom great fervice and advantage. In this neceffity, we are like two great Armies encamped upon two hills; and neither dares remove, not for their valour, but their reason: He that has the last loaf stays longest, and necessity compells the other to go off. At Y 2

last, it must be one side or other, or England will have the worst of it. But if none will venture, in point of Law, to maintain the Expedient, I am answered. If any Gentleman could alter that Bill of Exclusion, that it may not be just the same it was last Parliament, but have something of this Expedient, I should like it; for this Expedient is a Bill of Exclusion; &c. and a strong one: If the Duke were to chuse, he had rather have the first. I am for that nail that will drive, to do our business; and if Gentlemen have other thoughts, pray so contrive it, that we may have one Bill or the other.

Mr Harbord.] All the Expedients that I have yet heard have been like a cucumber; drefs it, and then throw it This Proposition of the Expedient is either honest, or not. If it be honest, and without design, then all the dispute betwixt the King and us is, Whether the Duke of York shall have a Title to the Crown? and I hope the King will rather gratify the Nation than his Brother. who has attempted the ruin both of it and him. If it be not honest, people about the King have done it to circumvent him, and will find ways, from day to day, to divert him from the advice of his People. Why was England fo fond of Calais, but to have some footsteps in France? And fo the Duke's creatures are [fond] of this Expedient, that the Duke may still have a Title to the Crown, though the Government be placed in a Regency; and then all those Gentlemen who depend upon the Duke, if he comes to the Crown, will change their measures, and show you of what Religion they are.

Sir Francis Winnington.] Meres not being satisfied with Arguments of Law, that calls me up, as in my Profession. As to the Question, concerning the Bill of excluding the Duke of York; that that Bill is lawful in conscience, no man will oppose, and after the great opposition it met with in the Lords House, yet they agreed it lawful. So that we are not doing what wise men think unjust, and what Jure divino is not unlawful, concurrentibus iis qui concurrere debent. Some Gentlemen

have

have told you, "That their Countries have given them intimations to press this Bill of Exclusion;" and Littleton has told you, "It is dangerous to take instructions from the Country." But I fay it is more fo to take it from the Court. Parliaments formerly, upon any weighty affair, stayed, and fent their Members down to confult their Countries. I am not subjected to what my Country does propose. I have my Trust to serve them here as well as I can. It is alleged, "That confulting our Country is like the States of Holland." I am as much against a Republic as he that fears it most, and I say, I know Littleton to be a man of that great Reason, that, if he go away satisfied with this Day's Debate, he will do all he can to fatisfy the King in the Post he is in. But to keep close to the Question: It being allowed by Law, that there may be an Excision of the Duke from the Government, the next thing is, to consider the Expedient proposed of the Regency. The fame Authority that makes a Descent from the Crown may modify it, and this was argued, to show that the Regency would fignify nothing in taking away the dignity of Monarchy. Now the Question is, Which is most practicable, the Regency or the Exclusion? We Lawyers are aptest to go on the strongest side, and to call every thing "Prerogative." But I will put you a case that happened in King James's time; a Sheriff had an Exception in his Commission, "That he should not keep his County-Court, but should have all other Powers of his Office;" but the Judges refolved, "That when once he had received his Commission, and taken his Oath, he was Sheriss to all intents and purposes, and could not be deprived of keeping the County-Courts." Acts of Parliament against Common-sense are void in themselves; to make a man King, and not fuffer him to exercise kingly power, is a contradiction. Some Clauses in Acts of Parliament have been flattering Clauses, to satisfy the People, that they might not have the thing. This Act of Regency would be nonfense, and it would be faid hereafter, "That the House of Commons were outwitted." If the Duke be King, I owe him my obedience, and if he be King, and have no power power to govern, he is King and no King. This I have urged the rather, to show that this of the Regency is no Expedient to fave Religion; it blears the eyes of the People only, and is no folid fecurity. To fay, "That the Duke values his Estate, and will not venture to come into England after the Act has banished him, for fear of forfeiting it," as he loves his Estate, so he loves a Crown too, very well; therefore you need no farther to arm yourselves in point of conscience (that being yielded on all hands) but in point of reason. In the last Parliament I did see, by the Arguments of the Papifts and the Ministers, that without this Bill our ruin was irrefiftible. If the Duke comes to the Crown a Papist, he brings merum Imperium along with him, and that made me fond of the Bill of Exclusion from the beginning. If by Law the Duke never was King, no case of conscience lies upon us in the matter. I shall only make this observation upon the King's Speech. wherein he fays, "If it be practicable to rid ourselves of the Popish Party;" and next, "If means can be found that, in case of a Popish Successor, the Administration of the Government may remain in Protestant hands;" fo that we fee the King doubts himself, and this, delivered by the King in great wisdom, is clipped off into this Expedient of Regency-You fee, now we are come to Expedients, which the Ministers have had two Parliaments to confider of, what they are come to, and the proposition of the danger of a Popish Successor not at all lessened. We have no security in Law by this Expedient. You take away no authority from the Duke, should he be King. Therefore I hope the Bill of Exclufion will pass, and that Reason, and not great Offices, will take men off from a Nemine contradicente—I speak this as a dying man.

Mr Booth.] I have it in command from the County I have the honour to serve for *, that they apprehend that no Expedient to preserve Religion, in case of a Popish Successor, but makes the remedy worse than the disease,

^{*} Cheshire.

nless the Bill to exclude the Duke from the Succession of the Crown; and I have, as yet, heard no reason given by any man against it: But there is an aliquid latet. If the Duke be not set aside, I am sure the Government will be. Therefore I move for the Bill of Exclusion.

Sir Thomas Meres.] I know not how far Winnington's Argument may be pressed. What Bill soever we have, pray let us have the Law on our sides, that, if the King should die, we may know whither to go. I think the King's Speech is penned as it ought to be penned, and should the King speak positively to what Laws he would have, we are an Irish Parliament, and not an English. But the King's words are tender words, and the thing lies fairly before you. If any thing of Expedient can be thought of to save Religion under a Popish Successor, not to destroy the Monarchy; and if the next Expedient be not the best, pray resuse not the next to that.

Mr Vaughan.] You have had an Expedient offered of a Regency; pray confider what this Regency is. It is but the whole Office of King, to place Judges, conftitute Privy-Counfellors, call Parliaments, make Peace and War, &c. This they would take away, and referve this empty name of King to the Duke. This is perfectly to bring a War upon us, and for the Duke to come in by Conquest; and so farewell Law, Church, and all! The Regency must be supported by War, as well as the Bill of Exclusion. In 13th Elizabeth, the Crown could not be alienated but by King, Lords, and Commons, and then there was no Successor named to keep King James in awe; and for the fame reason, no Successor was named in the Bill of Exclusion the last Parliament. we have been frighted by Prorogations and Diffolutions, it will not frighten them whose Reasons go along with the Bill of Exclusion. I am for it because all men are for it, and have fent up the fame Parliament again; but if you lead the People into uncertainties, by fuch an Expedient as this of the Regency, both Court and Country Y 4 will

will then be of a mind to lay aside Parliaments, because they are become useless; therefore I am for the Bill of Exclusion.

Sir Henry Capel.] By these Conspiracies of the Papists, Peoples eyes are now enlightened, and, all the world over, they are an informed People. The Papists care not who is King, if he be a Papist. In the last Parliament it was said, [by Hyde,] "There was a Loyal Party would stick to the Duke, notwithstanding the Bill of Exclusion"—We see France has fallen upon the Protestant Party there. The Emperor has mastered them in Hungary, and what has been done in Bohemia, they say, broke the Prince-Elector's heart. An universal design against the Protestant Party—(The rest of his Speech was mostly what he had said

in the last Parliament.)

Colonel Legge. I would not have spoken for the duty I owe my Master, the Duke of York, but for my duty to my Country; and I own my obligation to the King for being the Duke's servant; and farther, I am a Protestant, and was never out of England; and for the King's fervice my Father bred me at fea. I know my own weakness in not having been bred to the Law; but by enquiry I find, that the Doctrine of deposing Kings, and disposing of their Kingdoms, is the damnable Doctrine of the Church of Rome-In the 24th of Edw. III, the King (I find) demanded Advice of Parliament in matters relating to the Crown; the Answer of the whole Parliament was, "They could not advise any thing relating to the Crown, nor of difinheriting him to whom they were fworn." The fundamental and Common-Law of England has made the Duke, as Heir, to come to the Crown, if the King have no fons—Hen. IV. came to the Crown by Parliament, but laid his Claim to it by descent from Hen. III, and so it continued to Hen. VI, and then the Parliament declared, that those Acts were not binding, but unjust and invalid, and so the right Heir came in-Hen. VIII. had power to difpose of the Crown by his last Will and Testament; and though Jane Grey baited her title by Religion, yet Right

I faid

took place in the Succession; and fince that, there has been an Act of Restitution in King James, as lawfully and justly the right and next Heir to the Crown; and to befeech the King to accept of their Allegiance to him and his Posterity. I think our Ancestors were sworn to King James and his Posterity, as well as we—It is a great happiness that the two Lines of York and Lancaster are united, which has fpent fo much noble and royal Blood in the Barons Wars. We have had an attempt of turning the Government into a Republic; and who knows but that, if we put by the Right of the Duke to fucceed, that may be attempted again; and the Crown-Revenue being much upon the People's gift, it may the more eafily turn us into a Republic. In the late times, when my Father was in Prison, an eminent Person then in power, discoursing with him, said, "I have obliged you, and when the King comes in (as I believe he will do, first or last) pray be my friend, and think of what I fay; when the King's Party shall be again in the faddle, if once you divide amongst yourselves, farewell Monarchy for ever!" If by a Law you keep out the Duke of York, what must follow? An Act of Association. I speak now for England and for my Posterity, (I have seven children.) How will this look? The King's Father was murdered, and you take his Brother from him. Sure this can take no effect with the King, and the Lords, to make it a Law. I wish the Duke many happy days, but, from my heart, I wish the King more than the Duke. The King is a healthy man, and the Duke is not-What I have faid is not as I am the Duke's Servant, barely out of pique of Honour, but that I would not do any thing to destroy my Posterity. (Most of this Discourse having been fully replied to in the last Parliament, no Answer was given to it.)

Colonel Birch.] This is the Day of England's distress, and not only of England, but upon this Day's Resolve depends the good fate of the Protestant Religion all the World over. Except we expect a miracle from Heaven, nothing else can save the Protestant Religion. I think,

I faid this many years ago, "That Popish Matches would bring in Popery at last." But as to what is said to point of Law, "That the Law will be interpreted according to the strength that maintains it;" I doubt not but if you do your endeavours, this great matter in Debate may be fettled; but if we have nothing left but prayers and tears to help us, we are in a miferable condition—All Government begins either by Conquest or Compact; but it is Interest that must defend this Bill of Exclusion, and not an Army. We are the Army. I have a Family as well as others; and as for fetting up Idolatry, rather than my Children should breathe in such an air, I had rather they were buried—All the mischiefs in the World that may enfue upon this Bill of Exclusion have been ingenuously offered you by Legge; but if you quit this Bill, pray fit down and take up a Popish Successor, and renounce the Protestant Religion—I would break this Popish interest, and it will be our interest to maintain this Bill. If once this Bill pass, and, as in Queen Elizabeth's time, Protestants are put into Places of Trust, you may be fure of the good effects of your Bill. Where ten were of the mind for this Bill a twelve-month ago, there are an hundred now that will bleed for it. plain English, let us show the World that the Protestant Religion is dear to us, and that we have the Law on our fides to maintain it; therefore I am for the Bill of Exclusion.

Sir Thomas Littleton.] I was mistaken by some Gentlemen, therefore I desire to be rectified. I shall be very short, and tender of you, having sat long. It is objected "the uncertainty this Expedient will lie under, if the Duke have a Son;" which is thus answered; "That then the Princesses respectively shall succeed in the Regency;" which obviates an incurable absurdity in the former Bill of Exclusion. For if the Duke have a Son, the Lady cannot descend from the Throne. This Bill of Exclusion is so weak a thing, that it will require all the props imaginable to support it; and a train of consequences will follow—What you have been told of Scotland is worthy your

your confideration: If Scotland is not confenting, I know not how you will obviate that; I fear it may unite the Papists of England and France. But we ought to do fomething. I faid I would not be long, and I have kept

my word.

Mr Boscawen.] Littleton may be convinced of the weakness of the Expedient to save the Protestant Religion by his own Argument. For by fo much the easier it is for the Princess to descend from the Regency, so much the less is our fecurity. And as for the objection of Scotland, the same interest which passes the Bill of Exclufion here, will do it in Scotland; and for Ireland there is no need of it. By the proposition of the Expedient, all Commissions for Sea, Land, and the Church must go from the Regent in the Duke's name; and if all dispatches, &c. must go under his name, there will be still no security, for the Oaths of Allegiance and Supremacy must be taken to the Duke; and if that be not a true proposition, "That we are not to take up arms against the King, nor those commissioned by him," I know not why it was by Law obliged to be taken by all that execute the Militia; and if that be a true proposition, why must it be destroyed by this Expedient now? The thing lies loofe to me. Methinks, this Expedient of the Regency feems to me as if a man that fat by the fire and burnt his shins, instead of removing himself farther off, should send for a mason to remove the chimney back farther from him. I have heard, that, if a man make a freehold leafe to commence from the date thereof, it is void. It would be far more ingenuous for Gentlemen to fay, "That if you do pass the Bill of Exclusion, they will not be bound by it, but will have the Duke to fucceed;" and then I wish they would tell us what will fave the Protestant Religion. If the Duke do come in, will Gentlemen chuse either to turn Papilts, or to be burnt or hanged? If this Proposition would keep out Popery, I would accept of it. I have no difrefpect to the Duke; but if I am to leap over a river, I had better have no staff than a broken one; and this Expedient is no fecurity. If it must be in the power of the Council

Council and the Regent to dispose of the Public Treafury, to make War and Peace, pray where is the Government? Where is the Monarchy? Either they will be faithful and keep this Law of Regency, and the Duke shall be King but by name, and so take away the soul of the Government, or they will let the Duke in to govern as I have hearkened with patience to this Expedient, and because I would willingly hear what can be farther offered, I will not be too hafty to press the Question for the Bill of Exclusion.

The Debate thus ended, and this Vote passed, viz.

The House having taken into solemn Debate and Consideration, the means for the Security of the Protestant Religion, and

for Safety of the King's Person, doth

Resolve, That a Bill be brought in to exclude James Duke of York from inheriting the Imperial Crowns of England and Ireland, and the Dominions and Territories thereunto belonging; and that a Committee be appointed to draw up the faid Bill.

A Gentleman moved, "That this Bill might also ex-

clude all other Popish Successors." To which

Mr Hampden answered, He believed the Gentleman made the Motion with a good intent; but this is a Bill for the purpose only of the Duke's Exclusion, and that for all other Popish Successors may be done in another Bill hereafter; for the way to lofe a Bill is to clog it with too many things *.

In the Afternoon.

Debate on the Lords refusing to proceed upon the Impeachment of the Commons against Edward Fitzbarris, [and directing "That he should be proceeded against at Common Law †."]

Sir Thomas Lee. I see not what farther use there is of a Parliament, if the House of Peers will be a Court, and not a Court, to ferve a prefent purpose.

named in the Vote in the Jour-

† The Commons Impeachment against Fitzbarris was rejected by

* " All Popish Successors" are nished them. It was this: Edward III had got some Commoners [the fix murderers of Edward II] to be condemned by the Lords, of which when the House of Commons comthe Lords upon a Pretence with plained, anOrder was made, "That with which Lord Nottingham fur- no fuch thing should be done for

Sir William Jones.] In a matter so very plain and conspicuous, as the refusal of this Impeachment by the Lords. I am unwilling to make unnecessary doubts. If indeed an inferior Court had proceeded to Judgment in this matter of Fitzbarris, then it might have been pleaded in bar against the Impeachment of the Commons. There was an Indictment against the Lords in the Tower, in the King's-Bench, found upon Record, and yet that was no Impediment to their Tryal by the Impeachment of the Commons; but in this case of Fitzbarris, here is no Indictment or Profecution begun in any inferior Court of Law. We have a Precedent fresh in memory of the Impeachment of a Commoner at the Lords Bar, if the Lords doubt that, which was of my Lord Chief Justice Scroggs; so that we need not spend our time to search for Precedents to maintain our Right at a Conference with the Lords. Perhaps the Lords Journals are not yet made up into form; but fome Members have taken Notes out of their Minutes. and find that the Lords have difmissed the Impeachment against Fitzbarris, and left him to Tryal at Common Law, and have ordered it fo by the Lords "Spiritual" as well as "Temporal;" and in this case they have determined a great point, " That the Lords Spiritual have power to judge in an Impeachment of capital matters," which we never own, nor ever shall, and here we are denied Iustice by those who have no right to vote it. In this the Lords have done a double Act of Injustice. Seeing then that the Lords have taken upon them to throw our

Suit; but it could not be meant, that an Impeachment from the Commons did not lie against a Commoner. Judges, Secretaries of State, and the Lord Keeper were often Commoners. So if this was good Law, here was a certain moners. In fhort, the Peers faw

for the future." Now that related the defign of this Impeachment, only to Proceedings at the King's and were refolved not to receive it, and fo made use of this colour to reject it. Burnet.

On this occasion a Protest, with Reasons, was admitted for the first time, figned by the Duke of Monmouth, and eighteen other Lords, which, by the means of the Prefs, for method offered to the Court, to be which it was originally calculated, troubled no more with Impeach became the subject-matter of politiments, by employing only Com- cal controverfy all over the Kingdom. Relph.

this Impeachment, &c. let us affert and declare our Right of impeaching in Capital Causes, and that the Lords have denied us Justice in refusing the Impeachment against Fitzbarris; and then, after having afferted our Privilege, let us draw up our Reasons to maintain it, and make it part of our Conference to show the Lords, how unreasonable the Lords actions have been in their

Proceedings.

Sir Francis Winnington. If this refusal of the Lords was an ordinary Impeachment of Monopolies, or the like, I should not press you in the matter; but this is not an ordinary Confideration, but that which relates to our Religion and Property; and how the Bishops come in to stifle this Impeachment, let God and the World judge! I would know if there be an Impeachment against a man from the Commons, and no Indictment upon Record against him in the Courts below, only the Attorney-General told the Lords, that the King gave him directions to profecute Fitzbarris, and there is no Record against him. If the Lords vote, "That the House of Commons shall not impeach this man," they may as well vote, That we shall not be Protestants. But yet we will be Protestants. I take this to be a new Plot against the Protestant Religion, and we impeach this man, and the Lords fairly fay, "We will not hear it." If this be the case, I desire you will come to some Vote. You are willing to discover this Plot if you could. If the Attorney-General had prepared the Profecution of Fitzbarris, and, as Jones faid, if the inferior Courts had proceeded to Judgment against him, then that Judgment is pleaded in bar against an Impeachment. But if our time be short to be here (as I believe it is) pray do not delay discharging your part in this matter. If the House be satisfied in it, pray make a Vote, to affert your own Right. little while ago, we knew, that the Judges of the King's-Bench discharged the Grand Jury, whilst the Indictment against the Duke of York, for a Popish Recusant, was depending: This Proceeding of the Lords, in rejecting the Impeachment of Fitzbarris, feems as if the House of Lords

Lords intended to justify that Proceeding of the Judges by their own. It is a just reflection of weakness to doubt in a plain matter. If no Gentleman doubts of our

Right of impeaching, pray vote it fo.

Sir Robert Howard. I am glad we are off from one great thing, viz. "the Exclusion of the Duke of York from the Succession of the Crown as the best means to preserve the Protestant Religion." I cannot believe but that, in this matter of rejecting the Impeachment of Fitzkarris. the Lords have cause for what they do. In this matter, Precedents you need not fearch; you have instances of very late date: But this of Fitzbarris feems to me to be a more dangerous breath than usual, a breath fit to be stifled. There is something in this more than ordinary. If this be a facred respect in the Lords to the common Tryals of England by Juries in the inferior Courts, it is strange that, in the case of Skinner, the Lords should contend with the Commons about the Tryal of it, though an original cause. This refusal of the Lords seems to me to be no great value of the Law of England, but a value of Fitzbarris to keep him from us. When I have feen, in all the Speeches to-day relating to the Duke's Exclufion, that the Duke goes not fingle, but all along affociated with Popery—I have heard fuch excellent discourses to-day of that matter, that I am loth to mingle my weakness with them; but these are such Counsels from the Lords. that I believe hereafter the King will have no cause to thank the Lords, or those that were the originals, for involving him in the fatality of them. They will make the traiterous libel of Fitzbarris the Copy of their Counsels. gerfield was a man reputed most infamous, yet if he would discover what he knew of that sham Presbyterian Plot, nothing of mercy was too big for him; but Fitzharris, a man of no infamy, must be hurried away from Newgate to the Tower, when he was disposed to conseis the whole Plot to those Gentlemen who examined him. Are you fo loft, that there is no mercy left for the Protestant Religion? If the terror of his condition incline him to discover all, must be now be taken out of our hands? We hear hear of other things too; that the French Ambassador had a hand in the contrivance of this Plot with him, and can that be enquired into by a Common Jury, who are to concern themselves in no more, than whether Fitzbarris be Guilty, or Not guilty? I must confess, that with the carriage of this, I have enlarged my fuspicion, and I must always suspect unusual ways. We see that the worst of mankind has been pardoned, with all his villainies about him, upon an ingenuous confession; but what provocation has there been from Fitzharris, to be thus hurried away to Tryal at Common-Law in a dispofition to confess all, and so be out of the reach of Pardon, should that disposition continue upon him? But I am perfuaded fomething depends upon this man, as well as upon the Bill we ordered today. When I faw the temper of the House, when Jenkins refused your Meffage * (and there was fomething in that too) that the House would make no breach upon it, and passed it over with great temper, that now we must lay down all Profecution of the Plot, and that the Protestant Religion shall have no mercy!—Fitzbarris may merit by his confession, where he may reasonably hope for the same intercession for his Pardon, that much blacker offenders have obtained; but if his breath be stopped, I am forry the People should have occasion to fay, "If it were not for the Lords, the Protestant Religion might have been faved." Therefore I move, that, in the wording of your Vote, you will not only fay, "That the Lords rejection of this Impeachment is not only a subverting the Constitution of Parliament," but "of the Protestant Religion" also; and I hope you will do this with the same calmness of mind that every man does wish that loves his Religion.

Serjeant Maynard.] This damnable Popish Plot is still on foot in England, and I am sure in Ireland too; and what arts and crafts have been used to hide this Plot! It began with the murder of a Magistrate [Godfrey,] then with

^{*} See p. 305-12.

Perjury and false Subornation, and this of Fitzharris is a second part of that. We sent up an Impeachment to the Lords against Fitzharris, and told the Lords, "That, in due time, we would bring up Articles against him," and the Lords refuse to try him. In effect, they make us no Parliament—If we are the Prosecutors, and they will not hear our Accusation, their own lives, as well as ours, are concerned. This is a strange way of proceeding; the same day we impeach Fitzharris, they vote we shall not prosecute him: Now, when all is at stake, we must not prosecute. If this be so, Holland must submit, and let the French run over all. This is a strange breach of Privilege of Parliament, and tends to the danger of the King's Person, and the destruction of the Protestant

Religion, and I hope you will vote it fo.

Sir Thomas Player. I shall make you a Motion, but first I shall fay we have had a considerable discovery of the former Plot. I call it the old Plot, but this of Fitzbarris has been new upon us. This is still a confirmation of the intention of murdering the King, the Duke confenting to destroy his own Brother and our King-I have often heard it whifpered, that the defign of Madame's Voyage to Dover was to promote the Popish Religion, but it is plain that Justice Godfrey was murdered by the Papists, and that the Army mustered on Blackbeath was raised with intentions to destroy the Protestants in Holland, and to awe the City of London-When Fitzbarris gave intimation, that he would discover what he knew of this Plot, and that two or three Honourable Members of this House had examined him, this man was fetched the next day to Whitehall, and from thence hurried away to the Tower, and so we were deprived of all farther hopes of discovery from him. We now revive the Information from an Impeachment, and now this man must not be brought hither to be tryed: He must be tryed in an inferior Court, that his mouth may be stopped, and put out of capacity to discover. This being the case, I move, " That if any Judges, Justices of the Peace, Juries, &c. shall proceed upon the Tryal of VOL. VIII.

this man, that you will vote them guilty of his Murder, and Betrayers of the Rights of the Commons of England."

The House proceeded to this Vote:

Refolved, That it is the undoubted Right of the Commons, in Parliament assembled, to impeach, before the Lords in Parliament, any Peer or Commoner for Treason, or any other Crime or Misdemeanor; and that the Refusal of the Lords to proceed in Parliament upon such Impeachment is a denial of Justice, and a

violation of the Constitution of Parliaments.

[Refolved, That, in the case of Edward Fitzharris, who, by the Commons, has been impeached for High-Treason, before the Lords, with a Declaration, "That in convenient time they would bring up the Articles against him;" for the Lords to resolve, "That the said Edward Fitzharris should be proceeded with according to the course of Common-Law," and not by way of Impeachment in Parliament, at this time, is a denial of Justice, and a violation of the Constitution of Parliaments, and an obstruction to the farther Discovery of the Popish Plot, and of great danger to his Majesty's Person, and the Protestant Religion.]

Refolved, That for any inferior Court to proceed against Edward Fitzharris, or any other Person lying under an Impeachment in Parliament for the same Crimes for which he or they stand impeached, is an high Breach of the Privilege of Parlia-

ment.

Sir William Jones.] I would not give occasion to People to say we do things in an extraordinary manner. It being late, I would proceed no farther now, but adjourn *.

Monday, March 28

The Bill for excluding the Duke of York, &c. was read the first time.

Sir Leoline Jenkins.] This Bill before you is very extraordinary. There was never the like before in Parliament. No Bill was ever offered in Parliament so much against the Justice of the Nation. Here is a great Prince condemned before he is heard. Next, it is ex post facto, very extraordinary, and against the Justice of the Nation;

^{*} For a close of this busy Day, another, to banish the most cona Bill was ordered in to associate his siderable Papists, by their names. Majesty's Protestant Subjects, and See the Journal.

and not only fo, but against the Wisdom of the Nation too; for it will introduce a change in the Government. If the Duke should try to cut this Law with his sword, and he should overcome, the same Power that can set aside this Law will fet aside all Laws both of our Religion and Property; the Power will be in the hands of a Conqueror, and he will certainly change the Government. This is against the Religion of the Nation. We ought to pay obedience to our Governors, whether good or bad, be they ever so faulty or criminal. Heathen Princes were obeyed by Christians in licitis et honestis. And we are not to do evil that good may come of it, or for any prospect of good. One word more: This Bill is against the Oaths of the Nation, the Oaths of Allegiance and Supremacy. We are bound by those Oaths, in the eye of the Law, to the Duke, and I am confequentially fworn to him. Every Oath is to be taken in the fense of the Lawgiver; and if this Bill pass into a Law, who can dispense with me from that Oath to the King? Poffibly I am too tedious, and not willingly heard. This Bill is against our Religion, against the Government and Wisdom of the Nation; and I hope you will throw it out. (Jenkins's Argument being the same with that of the last Parliament, which was then fully answered, passed off without notice.)

Mr Bennet.] Jenkins moved to throw out this Bill, and that he might be heard patiently. Nobody, it feems,

feconds him; therefore pray let him go on.

The Bill was ordered to be read a second time [next day, in

a full House.]

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Sir William Jones.] As to the Votes you passed on Saturday, upon occasion of the Lords rejecting your Impeachment against Fitzbarris, because there has been discourse of them in the Town, and I believe will be, in time, in the Nation, though what has been done will be made good, let us give all men satisfaction that we are in the right. Amongst our other missfortunes, in this Place we are far from Records and Books, and so it will not be easy to prepare ourselves to argue this. But according to Z 2

the little I have looked into this matter, I find that it is the undeniable Right of the Commons to bring Impeachments in Parliament not only against Lords but Commoners; and Magna Charta says not only that Subjects shall be tryed per Judicium Parium suorum, but per Legem Terræ. And Tryal in Parliament is Lex Terræ. I have heard of a Record of 4 Edward III, where when a Lord, the Earl of March—

The Black-Rod knocked at the Door, and gave notice that the King commanded the attendance of the House immediately

The House went up accordingly; where his Majesty dissolved this Parliament *.

* By the steps which the Commons had already made, the King saw what might be expected from them; so very suddenly, and not very decently, he came to the House of Lords, the Crown being carried between his feet in a sedan: And he put on his Robes in halte, without any previous notice, and called up the Commons, and dissolved the Parliament; and went with such haste to Windsor, that it looked as if he was assaid of the Crowds that this meeting had brought to Oxford. Burnet.

Ferguson afferts, "That the Confpirators (meaning the Court) having received intelligence that Fitz-harris's Wife and Maid were come to Oxford, in order to discover what they knew, resolved to put a stop to the career of the Commons early on Monday morning by a Dissolution; which was resolved on late the night before, in the Cabinet-Council at Christ-Church." Growth

of Popery, part ii. p. 194.

And Mr North gives the following detail both of the cause and manner of this extraordinary event:

The Commons complained, that the Convocation-House was too strait for them to sit and transact in; and, at their desire, orders were given for the immediate sitting up the Theatre for their use. The King concerned himself much

about the disposition of it, viewedi the design, gave his judgment, and came in Person among the workmen; and particularly, on Saturday, March 26, 1681, I had the honour of feeing him there, and observed his taking notice of every thing. On Sunday next his Majesty was pleased, especially towards the evening, to entertain himself and his Court with discourse of the wonderful accommodations the House of Commons would find in that place; and by his observations and descriptions showed how it was to be. All this while the spies and eves-droppers could find no fymptom of a Dissolution, but rather of the contrary, that the Parliament was likely to make a long Seffion of it. The next morning, which was Monday, the King came to the House of Lords, as he was wont, in a Chair, and another Chair fol-lowed, with the curtains drawn; abut instead of a Lord, as was thought to be in it, there were only the King's Robes. Thus they went and fat down in a withdrawing room. When the Robe-Chair was opened, a gross mistake appeared, for the Garter-Robes were put up instead of the Robes of State; so the Chair must go back with an Officer to bring the right. A Lord happened to be in the room, who, upon this discovery, was stepping

out (as they thought) to give the alarm; upon which, those with the King prevailed to continue his Lordship in the room till the Chair returned, and matters were fixed, and then he had his liberty." Examen, p. 104, 105.

The Commons no fooner pre-

fented themselves at the Lords Bar, than his Majesty expressed himself to this effect; "That he perceived there were heats between the two Houses; that from such beginnings nothing good could be expected; and that therefore he thought sit to dissolve them." Ralph.

To preserve connection, we have added the following Summary of the remaining part of King Charles's Reign.

THIS was the last Parliament called by Charles II; though in a Declaration which he published for satisfying his people, after reckoning up all the hard things that had been done in the three last Parliaments, and setting forth their undutiful behaviour to himself in many instances; in conclusion, he assured them, "That nothing should ever alter his affection to the Protestant Religion as established by Law, nor his love to Parliaments: For he would still have frequent Parliaments."

Sir Francis Pemberton having succeeded Scroggs as Chief Justice, Fitzharris's Tryal came on in Easter Term. His Impeachment in Parliament was over-ruled, the Lords having thrown it out, and the proof was fo full, that he was condemned. Upon this, feeing there was no hope, he charged Lord Howard with being the Author of the Libel, who was immediately fent to the Tower, and lay there till Michaelmas Term, and then was discharged by the Habeas Corpus Act; Fitzharris's Wife and Maid, who were the two Witnesses against him, being so evidently for-Iworn, that the Attorney-General withdrew the Bill. Fitzharris was executed, and foon after College, a Joiner, was charged, Dugdale, Turberville, and others, with being concerned in a Protest-ant Plot to kill the King at Oxford. The Grand Jury at London refused to find the Bill. Upon which he was carried to Oxford, and there was tried, condemned, and executed, denying to the last all that was sworn against him. In like manner, the Earl of Shaftesbury, upon the evidence of the Irish Witnesses, being fent to the Tower, the Grand Jury, to the great chagrin of the Court, rejected the Bill. A few days after, Turberville, being seized with the small-pox, persisted in his last moments in avowing the truth of all that he had fworn both against Lord Shaftesbury and Lord Stafford; so that the last words of dying men being opposed to the last words of those that suffered, must leave the impartial ever in the dark.

In Scotland, in 1682, the Earl of Argyle, for refusing to take the Tests there enacted, without his own explanation, which he did not scruple unguardedly to avow, was immediately committed to Edinburgh Castle, tried, and condemned, and had he not made his escape, would probably have suffered. The Duke of York was now permitted to return to Court, and feemed to have overcome all difficulties. And to remove all fears of future Parliaments, the Cities and Boroughs of England were prevailed on to furrender their Charters, and take new ones, modeled as the Court thought fit. The Earl of Sunderland, who had been difgraced after the Exclusion-Parliament, was restored, and Lord Conway was made the other Secretary. And on the Death of Lord Nottingham, the Seals were given to Lord Chief Justice North, who was created Lord Guilford. The City of London refusing to surrender its Charter, Judgment was given against it in the King's Bench.

The year 1683 will long be remembered for the fatal Catastrophe of Lord Russel and Algernoon Sidney. That a Rising was intended; and that Lord Ruffel was present when it was discoursed of, cannot be denied; but that he was guilty of the Treason alleged, of conspiring the King's Death, or could have been condemned but by a packed Jury and corrupt Judges, is equally undeniable. In fact, the Bill of Exclusion was his Death-warrant. He was beheaded in Lincoln's-Inn-Fields in July. And the Earl of Effex, for the same Conspiracy being fent to the Tower, was found in his room with his throat cut

the very morning of his friend's tryal*. Colonel Sidney was tried next, and upon the fingle evidence of Lord Howard, added to an unfinished manuscript of his own writing, found in his closet, he also, by an unheard of stretch of Law, was condemned

reported that Lord Effex was his own murderer, yet the following circumstance, little known, seems to difprove that supposition beyond doubt. Harry Guy was then Secretary to the Treasury, and a sure Agent to the King or Duke if any dirty work was to be done. He paid and disperfed the Secretfervice Money, of which payments he kept a regular account in a Book which is still extant, and now is, (1762) or lately was, in the poffession of a Gentleman at Chelsea, who made no scruple of showing it to particular Persons. In this Book of Accounts appears a Minute of bool. paid to one Bomini, a Valet de

* Though it was industriously Chambre of the Earl of Effex, during his Lord's confinement in the Tower, and previous to his death. This Bomini was never heard of after the Earl's death. In confirmation of the confequences that may be drawn from this fact, Rapin, Vol. ii. p. 729, fays, "I am very certain the last Earl of Effex (the Son of him who died in the Tower) was of opinion that he was murdered, and have heard him fay fo, and that a French Footman [Bomini, by the termination, should be Italian, but that is of no consequence] who then ferved his father, was strongly suspected, and disappeared immediately after the fact.

and executed. Need it be added, that he was one of the first that had moved for the Exclusion? Soon after this, the Duke of Monmouth (who had made his escape) upon his confession was pardoned, but upon his recantation was again disgraced. Mr Hampden, on Lord Howard's evidence, was fined in the sum of 40,000 l. (Feb. 6.) and Holloway, by the hopes of a pardon being induced to confess, and Sir Thomas Armstrong, being seized in Holland (though the time of his coming in was not elapsed) were both executed. The Earl of Danby and the Popish Lords were bailed, and Oates being prosecuted at the Duke's suit for Scandalum Magnatum was fined 100,000 l. To conclude, on February 6, 1684-5, King Charles died, confirming on his death-bed that attachment to Popery of which he was suspected during his life.

Mr Grey, the Compiler of these Debates, not being a Member of King James's Parliament, it has been thought proper in some measure to supply the defect, by the following Abstract of the Proceedings of Parliament, in that short and unfortunate Reign, taken from the Journals of the House, and Histories of the Times.

THE Duke of York, on his Brother's Death, succeeding to the Throne, was immediately proclaimed King by the Title of James II; and having summoned a Parliament, such arts were wied, and the Elections so successfully managed, that the King said, "There were not above forty Members but such as he himself wished for *."

Both Houses met on

Tuesday, May 19, 1685.

When the Earl of Middleton, one of his Majesty's Secretaries of State, having acquainted the Commons, "That his Ma-

* [It should here be remembered that,] before the Parliament met, as a preparation to it, Oates being convicted of Perjury on the Evidence of the Wilhelles from St. Omers, was condemned to have his Priestly Habit taken from him, to be a Prisoner for life, to be set on the Pillory in all the public places of the City, and ever after that to be set on the Pillory four times a year, and to be whipped from Aldgate to Newgate one day, and the next from Newgate to Tyburn; all which, though executed with the

* [It should here be remembered utmost rigour, he bore with amaat,] before the Parliament met, zing constancy.

Dangerfield also, being convicted of Perjury, had the same punishment, but it had a more terrible conclusion; for a brutal Student of the Temple, heated by the times, struck him so fatally over the head with his cane, that he died immediately. The Person was apprehended, and left to the Law; and, though great intercession was made for him, the King would not interpose, and so he was hanged for it. Burnet.

Z 4

344 Proceedings in Parliament in 1685.

jesty had been pleased to direct them forthwith to proceed to the Choice of a Speaker," and proposing, "That Sir John Trevor, Knight, by reason of his great integrity, knowlege of the Laws of the Land, and of the Rules and Orders of the House, was therefore (in his Lordship's judgment) a Person highly deserving, and fitly qualified for such a Trust;" Sir John Trevor was unanimously chosen Speaker, and in the afternoom was approved of by his Majesty. That and the two sollowing days were employed in taking the Oaths.

May 22. His Majesty, in the House of Lords, made the

following Speech to both Houses:

" My Lords and Gentlemen,

"After it pleased Almighty God to take to his mercy the late King, my dearest Brother, and to bring me to the peaceable possession of the Throne of my Ancestors, I immediately resolved to call a Parliament, as the best means to settle every thing upon those foundations that may make my Reign both easy and happy to you: Towards which I am disposed to contribute all that is fit for me to do. What I faid to my Privy-Council, at my first coming there, I am desirous to renew to you*; wherein I fully declared my opinion concerning the Principles of the Church of England, whose Members have showed themselves so eminently loyal in the worst of Times, in defence of my Father, and support of my Brother, of bleffed memory, that I will always take care to defend and support it: I will make it my endeavour to preserve this Government, both in Church and State, as it is now by Law established. And, as I will never depart from the just Rights and Prerogative of the Crown, fo I will never invade any man's property. And you may be fure, that, having heretofore ventured my life in the defence of this Nation, I shall still go as far as any man in preferving it in all its just Rights and Liberties.

"And, having given you this assurance concerning the care I will have of your Religion and Property, which I have chosen to do in the same words I used at my first coming to the Crown, the better to evidence to you that I spoke them not by chance, and consequently that you may the more firmly rely on a Promise so solemnly made; I cannot doubt that I shall fail of suitable returns from you, with all imaginable duty and kindness on your part; and particularly in what relates to the settling of my Revenue, and continuing it during my life, as

it was in the time of the King my Brother.

" I might

The new King's Speech in for he repeated it to his Parlia-Council was, it feems, well confidered, and much liked by him; fions. Burnet.

"I might use many arguments to enforce this Demand from the Benefit of Trade, the Support of the Navy, the Necessity of the Crown, and the Well-being of the Government itself, which I must not suffer to be precarious: But I am confident. your own confideration of what is just and reasonable will suggest to you whatever might be enlarged upon this occasion. There is one popular argument, which I foresee may be used against what I ask of you, from the inclination men may have for frequent Parliaments; which some may think would be the best secured. by feeding me from time to time by fuch proportions as they shall think convenient: And this argument (it being the first time I speak to you from the Throne) I will answer once for all; That this would be a very improper method to take with me; and that the best way to engage me to meet you often is always to use me well ‡: I expect therefore, that you will comply with me in what I have defired; and that you will do it speedily, that this may be a short Session; and that we may meet again to all our fatisfactions.

" My Lords and Gentlemen,

"I must acquaint you, That I have had News this morning from Scotland, That Argyle is landed in the Western Islands, with the men he brought with him from Holland; and that there are Two Declarations published, one in the name of those in arms there, the other in his own: It would be too long for me to repeat the substance of them: It is sufficient to tell you, that in both of them I am charged with Usurpation and Tyranny. The shorter of them I have directed to be forthwith communicated to you. I shall take the best care I can, that this Declaration of their own Treason and Rebellion may meet with the reward it deserves: And I will not doubt,

† This was put in to prevent a Motion, which was a little talked of abroad, but none would venture on it within doors, that it was fafeit to grant the Revenue only for a term of years. Burnet.

The Earl of Arcyle, after having lived quiet in Frijeland ever fince the disappointment in 1683, resolved at last to go to his own Country, where he hoped he could bring 5000 men together. Accordingly he landed with some of his Country-men in Argyleibire, but the early notice the Council had of his designs had spoiled his whole scheme; for they had brought in

all the Gentlemen of his Country to Edinburgh, which faved them, though it helped on his ruin. Yet he got above 2500 men to come to him. But he lingered too long, hoping still to have brought more of his Highlanders together: So much time was lost. And all the Country was summoned to come out against him. At last he crossed an arm of the sea, and landed in the Isle of Bute; where he spent twelve days more, till he had eat up that Island, pretending still that he hoped to be joined by more of his Highlanders. Ditto.

but that you will be more zealous to support the Government, and give me my Revenue, as I have defired it, without Delay."

The House being returned,

Resolved, Nem. con. That the most humble and hearty Thanks of this House be given to his Majesty, for his most gracious Speech and Declaration: To which the Concurrence of the Lords having been defired and given, and it being prefented in the afternoon, his Majesty was pleased to return for Answer, "That he was well pleased with the Thanks of this House: And that he could repeat no more than what he had done; but that he would be as good as his Word: And that he did not doubt, but, with the affistance of both Houses, to maintain the Government against all Rebels and Traytors." May 23. The Earl of Middleton acquainted the House, "That his Majesty had commanded him to communicate to them the traiterous Declaration of the pretended Earl of Argyle, mentioned in his Majesty's gracious Speech:" Which being delivered in, and

at the Clerk's Table, (See it in the fournal,)
Refolved, Nem. con. That this House will stand by and affist his Majesty with their Lives and Fortunes against Archibald Campbell, the pretended Earl of Argyle, and his Adherents, and all Rebels and Traytors, and all others whatfoever that shall assist them, or any of them. Which Vote being presented by the House, in a Body, in the afternoon, his Majesty was

pleased to return this Answer:

" I could not expect less from a House of Commons so

composed as (God be thanked) you are.

"I rely on the affurances you have given me, which are the natural effects of your being monarchical and Church of England-men. I will stand by all such: And, so supported, have no reason to fear any Rebels or Enemies I have, or may have."

May 26. A Bill passed for settling the Revenue on his Majesty for his life, which was settled on his late Majesty for his life.

A Motion being made for preferving the Religion of the Church of England, as new by Law established;

Ordered, That the same be referred to the Grand Committee for Religion.

^{*} The Revenue was granted for life, and every thing elie that was give, than the King was to ask. asked, with such a profusion, that Burnet.

Wednesday, May 27.

Sir Thomas Meres reports from the Grand Committee for Religion, That the Committee, having taken the Matters, vesterday to them referred, into their Consideration, had

agreed upon the two following Refolves; viz.

1. That it be reported to the House, as the Opinion of this Grand Committee, to affift and fland by his Majesty, according to our Duty and Allegiance, for the Support and Defence of the Reformed Religion of the Church of England, as now by Law established, with our Lives and Fortunes.

2. That the House be moved, from this Grand Committee. to make an humble Address to his Majesty to publish his Royal Proclamation for putting the Laws in execution against all Diffenters whatfoever from the Church of England. Both which, upon the previous Question, being disagreed to by the House,

Resolved, Nem. con. That this House doth acquiesce, entirely rely, and rest wholly satisfied in his Majesty's gracious Word, and repeated Declaration, to support and defend the Religion of the Church of England, as it is now by Law established; which is dearer to us than our Lives *.

May 29. Dr Sherlock preached before the House.

May 30. His Majesty, in the House of Lords, after passing the Bill for fettling the Revenue, &c. was pleased to make the following Speech:

My Lords and Gentlemen,

"I thank you very heartily for the Bill you have prefented me this day; and I assure you, the readiness and chearfulness that has attended the Dispatch of it is as acceptable to me as the Bill itself.

"After so happy a Beginning, you may believe I would not call upon you unnecessarily for an extraordinary Supply: But when I tell you, that the Stores of the Navy and Ordnance are extremely exhausted; that the Anticipations upon feveral Branches of the Revenue are great and burthensome; that the Debts of the King my Brother to his Servants and Family are fuch as deserve compassion; that the Rebellion in Scotland, without putting more weight upon it than it really deferves, must oblige me to a considerable Expence extraordinary; I am fure fuch confiderations will move you to give me an Aid

* Burnet fays, "That the Clergy unacceptable. Some followed their pattern. But this was marked to be remembered against those that used so menacing a form."

of London added these last words to their Address, which had such an infinuation in it, as made it very

A Motion being made for a Supply, upon his Majesty's

Speech; the House, in a Grand Committee,

Resolved, Nem. con. 1. That it is the Opinion of this Committee, That a Supply be given to his Majesty towards the Repairs of the Navy and Ordnance, and the Stores for the same; and for those other occasions in his Majesty's Speech.

2. That, towards the faid Supply, an Imposition be laid on

all Wines and Vinegar.

3. That the Imposition to be laid on Wines and Vinegar be the same that was laid thereon by an Act of Parliament, 22 Charles II, entitled, &c. Which being reported were agreed to by the House, and the Sollicitor-General was ordered to prepare a Bill accordingly.

June 1. In a Grand Committee. On the Supply.

An Imposition was agreed to be laid on Tobacco and Sugars, and a Bill was ordered to be prepared accordingly.

June 3. The Bill passed for granting to his Majesty an Imposition on all Wines and Vinegar imported between June 24, 1685, and June 24, 1693.

June 13. The Earl of Middleton acquainted the House from his Majesty, That his Majesty had this Morning received Advice, as well by Letter from the Mayor of Lyme in Dorfetshire, as by Two Messengers come from thence, who had been examined upon Oath at the Council Table, That the Duke of Monmouth, with the late Lord Grey, was landed in a hostile manner, with many Men and Arms; and had seized the Fort

and

Proceedings in Parliament in 1685. 349 and Guns, setting up a Standard in the Town, and were listing

others *.

And the faid Letter being produced, and read to the House; And the faid Messengers being called in, and testifying the

truth of the matter at the Bar of the House;

Resolved, Nem. con. That the most humble and hearty Thanks of this House be returned to his Majesty, for his gracious Message to this House communicating the landing of the Duke of Monmouth; and that this House will stand by and assist his Majesty with their Lives and Fortunes against the said James Duke of Monmouth, his Adherents and Correspondents, and all Rebels and Traytors, and all others whatsoever that shall assist them, or any of them. And a Committee was appointed to prepare the said Address.

Refolved, That a Bill be brought in for Preservation of his Ma-

jesty's Royal Person and Government.

Resolved, That a Bill be brought in for the Attainder of James

Duke of Monmouth of High Treason.

Ordered, That the Committee last named do prepare and bring in the faid Bills.

Mr Sollicitor-General (Finch) reports from the Committee the

following Address:

"We your Majesty's most loyal Subjects, the Commons of England, in Parliament assembled, do, with all duty, return our most humble and hearty Thanks for your Majesty's gracious Message, communicated to us by the Earl of Middleton, of the invading this your Kingdom by that ungrateful Rebel James Duke of Monmouth; and do, with all duty and loyalty, and utter detestation of such Rebels and Traytors, assure your Majesty, that we are, and always shall be, ready to stand by and assist your Majesty with our Lives and Fortunes against the said James Duke of Menmouth, his Adherents and Correspondents, and all Rebels and Traytors; and all others whatsoever that shall assist them, or any of them.

*As foon as Lord Argyle sailed for Scotland, the Duke of Monmouth set about his design with as much haste as possible, and was hurried into an ill-timed Invasion. His whole company, with whom, after a prosperous course, he landed at Lyme in Dorsethire, (on June 11) consisted but of eighty-two persons. Many of the country people came in to join him, but very sew of the Gentry. And he quickly sound what it was to be at the head of undisciplined

men, that knew nothing of War, and that were not to be used with rigour—His great error was, that he did not, in the first heat, venture on some hardy action, and then march either to Exeter or Brissal, where, as he would have sound much wealth, so he would have gained some reputation by it. But he lingered in exercising his men, and stayed too long in the neighbourhood of Lyme. Burnet.

"And fince the Preservation of your Majesty's Person is of the highest concern to the peace and happiness of this Kingdom, we your most dutiful and loyal Subjects, do most humbly beseech your Majesty to take more than ordinary care of your Royal Person, which we beseech God long to preserve." Which Address being agreed to by the House, and presented in the afternoon, his Majesty was pleased to answer, "That he did thank this House for their loyal Address, and particularly for their care of his Person; that he would venture his life in desence of his people, and for their peace; and he did not doubt, but, with God's blessing, and the affistance of his loyal Subjects, to repell all Traytors and Rebels."

Jane 15. A traiterous Paper, entitled, "The Declaration of James Duke of Monmouth, &c." * being fent from the Lords, with an Order which that House had made thereupon; and the said Paper and Order being read to the House,

Resolved, Nemine contradicente, That this House doth agree with the Lords; and that the said traiterous Paper be burnt by

the hands of the common Hangman accordingly.

A Bill for the Attainder of fames Duke of Monmouth of High Treason was read the first and second time, ingrossed, and read the third time, and sent up to the Lords for their concurrence.

The Bill for an Imposition on Sugars and Tobacco, &c. passed. June 16. The two foregoing Bills were returned from the

Lords, without Amendments.

June 17. A Motion being made for a Supply to be given to his Majesty towards his present extraordinary expence for sup-

* The Duke of Monmouth's Manifesto was long, and ill penned; full of much black and dull malice. It charged the King with the burning of London, the Popish Plot, Godfrey's Murder, and the Earl of Effex's death; and, to crown all, it was pretended, that the late King was poisoned by his orders. It was fet forth, that the King's Religion made him incapable of the Crown; that three subsequent Houses of Commens had voted his Exclusion: The taking away the old Charters, and the hard things done in the last reign, were laid to his charge; the Elections of the present Parliament were also set forth very odiously, with great indecency of style: The

Nation was also appealed to, when met in a free Parliament, to judge of the Duke's own Pretensions; and all fort of liberty, both in Spirituals and Temporals, was promised to Persons of all persuasions. Burnet.

† The alarm of Monmouth's Invafion was brought hot to London; where, upon the general report and belief of the thing, an Act of Attainder passed both Houses in one day; some small opposition being made by the Earl of Anglesea, because the Evidence did not seem clear enough for so severe a Sentence, which was grounded on the notoriety of the thing. The sum of 5000l. was set on his head. pressing the Rebellion of the late Duke of Monmouth, and the pretended Earl of Argyle;

Refolved, That a Supply be given to his Majesty for his prefent extraordinary occasions, for suppressing the Rebellion, &c.

In a Grand Committee on the Supply,

Refolved, That a Tax be laid upon fuch new Buildings as have been erected upon new Foundations, fince March 25, 1660, within the Bills of Mortality, except all fuch Houses as have been built within the compass of the late general Fires in the City of London, and Borough of Southwark. Which being agreed to by the House, a Bill was ordered to be brought in accordingly.

June 18. The following Message from his Majesty was deli-

vered in writing, by the Earl of Middleton.

" JAMES R.

"His Majesty judges it necessary, for the good of his service, that the Gentlemen of this House (on whose Loyalty and Affection he depends, where-ever they are) should be present in their respective Countries; and therefore designs there should be a Recess in a very sew days: But, because the Rebellion in the West will occasion an extraordinary Expence, his Majesty desires there may be a good Fund of Credit provided for a present sum of money, to answer the immediate charge his Majesty must be at: And, to the end none of the Bills now depending may be prejudiced, his Majesty is pleased that this separation shall be an Adjournment, and for some short time only.

Given at our Court at Whitehall,

June 18, 1685."

Refolved, That a Supply not exceeding the fum of 400,000l. be given to his Majesty for his present extraordinary occasions.

Refolved, That a Committee be appointed to bring in an Estimate of what the new Buildings intended to be taxed, pursuant to the Vote of this House, will raise at one year's full value.

June 20. In a Grand Committee on the Supply,

Refolved, That an Imposition be laid on French Linnen, all Brandies imported, all home-made Spirits and strong Waters, all Callicoes, and all other Linnen imported from the East-Indies, all wrought Silks imported from the East-Indies, or manufactured in France, and all other foreign wrought Silks imported. And a Bill was ordered to be brought in accordingly.

June 22. The Earl of Middleton acquainted the House from his Majesty, That the Grand Rebel, Argyle, is taken, and now in safe custody *.

^{*} Argyle had left his Arms in a Castle, with such a Guard as he could

Refolved, That the most humble and hearty Acknowledgment and Thanks of this House be presented to his Majesty, for his gracious communication to them of the taking of that Arch-Traytor the late Earl of Argyle: Which this House received with all imaginable joy and satisfaction.

July 2. The House attended his Majesty in the House of Lords, where the Lord Keeper declared his Majesty's pleasure, to the effect following: "That both Houses should forthwith severally adjourn themselves till Tuesday the fourth day of August next.

"That his Majesty doth not at present intend there shall be then a Session; but that the Session be carried on by farther Adjournments, by such Members as shall be about the town, till winter, unless in case of some emergency that shall require it: In which case, or whensoever he shall intend a Session, he will give timely notice by Proclamation."

The House accordingly adjourned to August the 4th, and from thence, by his Majesty's pleasure, it was farther adjourned to No-

vember the 9th*.

could spare: But they were routed by a party of the King's forces. And with this he lost both heart and hope. And then, apprehending that all was gone, he put himfelf in a difguife, and had almost escaped: But he was taken. Thus was this Rebellion brought to a ipeedy end, with the effusion of very little blood. Nor was there much fied in the way of Justice. Argyle was carried to Edinburgh, where he was executed, pitied by all. His Death, being pursuant to the Sentence passed three years before, was looked on as no better than Murder. Burnet.

 With the Duke of Monmouth's Attainder the Session of Parliament ended; which was no small happiness to the Nation, such a body of men being dismissed with doing so

little hurt. Burnet.

Soon after the rifing of the Parliament, the Duke of Monmouth having marched from Lyms to Taunton, and from thence to Bridgewater, having in vain attempted Bath, and finding his men defert daily, resolved to attack the Earl of Fever-sham (who was sent against him with the Guards and regular Troops) on the very first night of his Encampment at Sedgmore, which was July

5, and had not his ill fate placed a battalion of Dumbarton's Regiment in his way, he had in all probability surprized the King's Army in their camp, and perhaps at that fingle blow decided the fate of England. As it was, he was entirely routed, having 3000 men killed on the spot, 1000 in the pursuit, and as many taken prisoners. Several parties being fent out after the Duke, he was discovered, Juby 8, in a ditch, covered over with fern. He was brought to London, July 13, and two days after was be-headed on Tower-Hill. Lord Grey, who it was thought betrayed him, received a pardon, and was afterwards created by King William Earl of Tankerville.

The cruelties that followed, the legal massacres of Jeffreys, and the military executions of Kirk, cannot be mentioned without horror, especially when it is added, that the one was only chid for barbarities that would have shocked a Cossack, and the other, for acting the part of an Inquisitor, was on his return created a Peer, and soon after made Lord Chancellor; the King himself taking pleasure to relate his Proceedings, under the title of Inferey's Campaign."

The Debates that follow are compiled by another hand.

[Monday, November 9, 1685:

THE Parliament met, when his Majesty, in the House of Lords, made the following Speech; which was afterwards read by the Speaker:

" My Lords and Gentlemen,

"After the storm that seemed to be coming upon us when we parted last, I am glad to meet you all again in so great peace and quietness; God Almighty be praised, by whose blessing that Rebellion was suppressed! But when we restect, what an inconfiderable number of men began it, and how long they carried it on without any opposition, I hope every body will be convinced, that the Militia, which hath hitherto been fo much depended on, is not fufficient for fuch occasions; and that there is nothing but a good Force of well-disciplined Troops in constant pay, that can defend us from fuch, as, either at home or abroad, are disposed to difturb us: And, in truth, my concern for the peace and quiet of my Subjects, as well as for the fafety of the Government, made me think it necessary to increase the number to the proportion I have done: That I owed as well to the honour as the fecurity of the Nation; whose reputation was so infinitely exposed to all our neighbours, by having so evidently lain open to this late wretched attempt, that it is not to be repaired without keeping fuch a body of men on foot, that none may ever have the thought of finding us again so miserably unprovided.

"It is for the support of this great charge, which is now more than double to what it was, that I ask your affistance in giving me a Supply answerable to the expences it brings along with it: And I cannot doubt, but what I have begun, so much for the honour and defence of the Government, will be continued by you with all the chearfulness and readiness that is requisite for a work

of fo great importance.

"Let no man take exception, that there are some Officers in the Army, not qualified, according to the late Tests, for their Employments: The Gentlemen, I must tell you, are most of them well-known to me: And, having formerly served with me on several occasions, and always approved the loyalty of their principles by their practice, I think them now sit to be employed under me: And I will deal plainly with you, that, after having had the benefit of their service in such a time of need and danger, I will neither expose them to disgrace, nor myself to the want of them, if Vol. VIII.

there should be another Rebellion to make them necessary to me*.

"I am afraid some men may be so wicked to hope and expect that a difference may happen between you and me upon this occasion: But when you consider what advantages have arisen to us in a few months, by the good understanding we have hitherto had; what wonderful effects it hath already produced in the change of the whole Scene of Affairs abroad, so much more to the honour of the Nation, and the figure it ought to make in the World; and that nothing can hinder a farther progress in this way, to all our fatisfactions, but fears and jealousies amongst ourselves; I will not apprehend that such a misfortune can befall us, as a division, or but a coldness, between me and you; nor that any thing can shake you in your steadiness and loyalty to me; who, by God's bleffing, will ever make you returns of all kindness and protection, with a resolution to venture even my own life in the defence of the true interest of this Kingdom."]

The Earl of Middleton of Ireland, a Member of the House of Commons, and one of his Majesty's Principal Secretaries of State, moved, That the House would immediately return their Thanks to his Majesty, for his most gracious Speech, and also proceed to the consideration of answering the ends therein mentioned.

After some Debate, it was Refolved, That the House resolve itself into a Committee of the whole House, on Thursday morning next, at ten of the clock, to take into consideration his Majesty's Speech.

Adjourned to

Thursday, November 12.

The House resolved itself into a Committee of the whole House, to take into consideration his Majesty's Speech.

Mr Sollicitor Finch took the Chair.

The King's Speech was read.

The Earl of Middleton moved to have it confidered by Paragraphs.

Sir Winston Churchill.] Some other than the Militia is necessary to be found: I move a Supply for the Army.

Lord Preston.] We have lately had an unfortunate proof, how little we are to depend upon the Militia, and

therefore

^{*} Thus the King fell upon the were, a standing Army, and a viotwo most unacceptable points that lation of the Act of the Test. Burhe could have found out; which net.

therefore fure we must all approve of his Majesty's increafing the Forces to what they are. France is formidable, now Holland's Forces are greatly increased, and we must be strong in proportion, for prefervation of ourselves and Flanders, and toward that, the good harmony betwixt the King and this House hath greatly contributed. It has had two other great Effects abroad. 1. The French King's Army last Spring was marching towards Germany; Crequi was far advanced; but when the King of France heard the kindness of this House to the King, and the defeat of Monmouth, he recalled them. 2. The French and Spaniards had also a difference about Haye and Fonterabia: The French advanced their Troops, and recalled them on this News. This is the noble Effect of the Harmony between the King and this House, who have (I hope) brought the same Heart and Loyalty they had the last time here. Hence we may conclude, these Levies made by the King are just, reasonable, and necessary. And so let us vote a Supply, to answer his Majesty's present occafions.

Earl of Ranelagh.] The Question is, Whether a Supply, or not? I do not intend to arraign the Militia, but seeing a Soldier is a Trade, and must (as all other Trades are) be learned, I will show you where the Militia has failed; viz. at Chatham; and in June last, when the late Duke of Monmouth landed, and had but eighty-three men, and 300l. in Money, who, in spite of the Militia, nay, in spite of such other sorce as the King could spare hence, brought it so far as he did. If the King of France had landed then, what would have become of us? I say, the Militia is not insignificant, but an additional force is necessary, and so a Supply that is answerable to it.

Sir Thomas Clarges.] If it shall appear to you, that the King's Revenue that he hath already, be sufficient to supply all the Occasions, what then need we give him more? It is moved, That we should proceed by Paragraphs. To come first to the Militia, who (let me tell you) did considerable service in the late Rebellion, and if a great Nobleman of this Kingdom had been supplied and assisted, it

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had foon been quelled. A confidence betwixt the King and his People is absolutely needful, let it come whence it will: our happiness consists in it. His Majesty, on his first entrance on the Crown, told us, "he had been mifrepresented, and that he would preferve the Government in Church and State now established by Law, and would maintain us in all our just Rights and Privileges." Over-joyed at this. we ran hastily in to him; we gave four Millions (reckoning what we added to him for life was worth) at once. The present Revenue is 1,900,000l. or two Millions, yearly; the charge of the Government (admitting this Army kept up) is but 1,200,000l. yearly: And pray let us not forget that there was a Bill of Exclusion debated in this House; I was here, and showed myself against it; the Arguments for it were, "That we should, in case of a Popish Successor, have a Popish Army." You see the Act of the Test already broken, but pray remember what the late Lord Chancellor told you, when the late King (of bleffed Memory) passed that Act: The words were to this effect; "By this Act you are provided against Popery, that no Papist can possibly creep into any Employment." I am afflicted greatly at this Breach of our Liberties, and feeing fo great difference betwixt this Speech, and those heretofore made, cannot but believe this was by some other Advice. This, struck at here, is our all, and I wonder there have been any men so desperate, as to take any Employment not qualified for it; and I would therefore have the Question, "That a standing Army is destructive to the Country."

Sir John Ernly.] The number of the standing Forces is about 14 or 15,000 men, and they were about half so many before, and I conceive we are not safe without these Forces to aid and help the Militia. I am not for laying aside the Militia, but I say, there is a necessity for a standing Force. Half the charge of those Forces, viz. about 300,000l. yearly, the whole being 600,000l. yearly, I conceive, is all we need to give for it: Of that there remains 200,000l. unreceived of the 400,000l. given last, so the 200,000l. may go towards it, and the rest may be supplied by a Tax on Commodities; as, for balancing of

Trade,

Trade, may better be charged than not. I am for

Supply.

Sir Hugh Cholmondeley.] I stand up for, and would not have the Militia reslected on; it was very useful in the late Rebellion of Monmouth; it kept him from Bristol and Exeter, and is as good as any Army we can raise against any at home.

Mr Coningsby.] I am for vindicating the Militia. There is just cause for a Supply, and I would give it, and reward the Officers not qualified, or take them off some other

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Mr Ashburnham.] I dread a standing Army, but am

for a Supply.

Mr Waller.] Kings, in old time, used to send, not only an account of their Revenues, but of the charge they were going to be at, to the Parliament, when they demanded Aids. Henry V. had but 56,000l. and Queen Elizabeth had 160,000 and odd pounds, yearly. I am for a Bill for making the Militia useful, and would know, if we give Money thus, whether it be not for setting up a standing Army? I am for good Guards.

Sir William Trumbull.] The Kingdom is guarded by Law; we are now in perfect Peace; the King is both feared and loved; an Army little needed; Men justly afraid: That which made the last Rebellion as it was, the man that headed it, was a favourite of the faction, and though he had got such a number, he was beaten by 1800 men

only. I am against an Army.

Mr Seymour.] This last Rebellion has contributed to our future Peace, and those engaged in it have sung their penitential Psalm, and their punishment rejoiced at by all good persons. I do not commend the Militia, yet it is not to be rejected, but to be new modeled; and, for my part, I had rather pay double to these, (meaning for keeping up the Militia) from whom I fear nothing, than half so much to those, of whom I must ever be afraid; and, say what you will, it is a standing Army. The last force preserved the Peace, and was sufficient to do it, in the late King's time, and is now; all the profit and security

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of this Nation is in our Ships; and had there been the least ship in the Channel, it would have disappointed him. Supporting an Army is maintaining fo many idle persons to lord it over the rest of the Subjects. The King declared," That no foldiers should quarter in private houses;" but that they did: "That they should pay for all things they took;" but they paid nothing for almost all they took. And for Officers to be employed not taking the Tests, it is dispensing with all the Laws at once; and if these men be good and kind, we know not whether it proceeds from their generofity, or principles: For we must remember, it is Treason for any man to be reconciled to the Church of Rome; for the Pope, by Law, is declared an enemy to this Kingdom. A Supply given, as moved for, is a kind of an establishing an Army by Act of Parliament; and when they have got the power into their hands, we are then to derive it from their courtesie; and therefore I would have the Question be, "That the fafety of the Kingdom doth not confift with a standing force:" And this, it may be, will disappoint these persons, that make it their business this way, to make themselves ufeful.

Sir Thomas Clarges then moved for an Address.

Sir Thomas Meres. I am first for a Supply; that hinders not an Address: His Majesty, in his Speech, only fays, "That the Militia is not sufficient." The late Long Parliament always owned fome force necessary: We are not to name the number, the King is best judge of that; a great foldier, and a good Prince: I hear the number is 14 or 15,000; and I am for a Supply, and never faw, but Money was always one part of the business of every Parliament. There was a bitter spirit in the three last Parliaments, not yet well allayed; and so I conclude a considerable force needful, besides the Militia. I call those raised, Guards, and would have a Supply given to Support his Majesty's extraordinary occasions. The Navy wants 6 or 800,000l. and I would give any Reafon for it; so a Supply may, without a Negative, be given.

Serjeant

Serjeant Maynard.] There is already a Law, that no man shall, on any occasion whatsoever, rise against the King: Lord-Lieutenants, and Deputy-Lieutenants, have power to disarm the disaffected: If you give thus a Supply, it is for an Army; and then, may not this Army be made of those that will not take the Test? Which Act was not designed a punishment for the Papists, but a protection for ourselves; and giving this Money is for

an Army: I am against it.

Sir Richard Temple. I must concur with the King, that the Militia is not fufficient: I am for mending the Militia, and to make it fuch as the King and Kingdom may confide in it; to trust to mercenary force alone is to give up all our Liberties at once. If you provide a constant Supply to support them by setting up an Army, Sir Thomas Meres has turned it into a Supply for the Navy. is no Country in the World, that has a Law to fet up an Army. We have already made an ample Supply for the Government. It is for Kings to come to the House, from time to time, on extraordinary occasions; and if this Army be provided for by Law, they will never more come to this House. I am for giving for the extraordinary charge past. Armies are useful, when occasion is for them; but if you establish them, you can disband them no more. I am for a Supply, but not on this score of the Militia: There was not a company formed till 1588; and as foon as Queen Elizabeth had done with her Army, she disbanded it. Armies have been fatal often to Princes. The Army, in the late King's time, often turned out their leaders. I am for going to the House, for leave for a Bill to mend the Militia.

Sir Winston Churchill.] The Beef-Eaters, at this rate,

may be called an Army.

Sir Thomas Hussey.] The Colonel may say what he will of the Beef-Eaters, as he nick-names them; but they are established by Act of Parliament.

Mr Seymour.] I can make out, that the King's Revenue

is sufficient to maintain the force on foot.

The Question being put, That a Supply be given to his Ma-

Sir Thomas Clarges moved, That the words, "towards the Support of the additional forces," may be added: which was car-

ried in the Negative, 225 to 156; and then these Votes passed:

Resolved, Nemine contradicente, That a Supply be given to his Majesty +; and, That the House be moved to give leave to bring in a Bill to render the Militia more useful *,

Which were agreed to by the House.

Friday, November 13.

A Motion being made, by the Earl of Middleton, That the House should proceed to the farther consideration of his Majesty's

Speech;

The House thereupon resolved itself into a Committee of the whole House; and the previous Question being then put, for the House to go on with the Supply, or proceed to the next Paragraph; the House divided.

For proceeding to the Supply, 182. For proceeding to the

next Paragraph, 183.

Resolved, That it be an Instruction to the Grand Committee, that the Committee proceed first in the consideration of that Paragraph in his Majesty's Speech, which next follows that of the Supply 1.

† The Court moved for a Subfidy, the King having been at much extraordinary charge in reducing the late Rebellion. Many, that were resolved to affert the business of the Test with great firmness, thought the voting of Money first was the decentest way, of manag-ing the opposition of the Court. Whereas others opposed this, having often observed that the voting of Money was giving up the whole Session to the Court. The Court wrought on many weak men with this topic, that the only way to gain the King, and to dispose him to agree to them in the business of the Test, was to begin with the Supply. This had so great an effect, that it was carried only by one Vote to consider the King's Speech before they should proceed to the Supply. It was understood, that

when they received fatisfaction in other things, they were resolved to

give 500,000l. Burnet.

* A Project was offered for making the Militia more useful, in order to the disbanding of the Army. But, to oppose that, the Court showed how great a danger we had lately escaped, and how much of an ill Leaven yet remained in the Nation, so that it was necessary a Force should be kept up. Burnet.

† They went next to confider the Act about the Test, and the violation of it, with the King's Speech upon that head. The reafoning was full and clear on the one hand. The Court offered nothing on the other hand in the way of Argument, but the danger of offending the King, and of raising a mifunderstanding between him and them. Burnet.

Saturday,

Saturday, November 14.

An Address was moved in the Committee, by Sir Edmund Jennings. Others moved the inconveniency of it, if not granted, and so to let it alone. Others, to have the Catholics, who had been so useful and well known to his Majesty, named and compensated. Some seemed to doubt his Majesty's compliance. Others, that it was not to be doubted, when addressed by such a House.

Mr Sollicitor Finch reports from the Grand Committee (inftructed as above) that the Committee had agreed upon the

two following Refolutions, viz.

Refolved, That it is the Opinion of this Committee, That the House be moved, That a Committee be appointed to prepare an humble Address to be presented to his Majesty, humbly showing, that those Officers of the Army, who are not qualified for their Employments by the Acts for preventing Dangers which may happen from Popish Recusants, cannot by Law be capable of their Employments: And that it be part of the said Address, "That his Majesty would be pleased not to continue them in their Employments."

Refolved, That it is the Opinion of this Committee, That the House be moved to appoint a Committee to bring in a Bill to indemnify those Persons unqualified, for the time past.

Which were agreed to by the House, with an Amendment in the first Resolve, by leaving out the words (marked in Italics) and by adding, instead thereof, these words: "That his Majesty would be graciously pleased to give such Directions, that no Apprehensions or Jealousies may remain in the hearts of his Majesty's good and faithful Subjects."

And an Address was ordered to be prepared accordingly, and

also a Bill to indemnify those Persons unqualified.

Refolved, That it be an Instruction to the said Committee, That, in the Preamble of the said Address, the humble and hearty Thanks of this House be returned to his Majesty, for his great Care in the Suppression of the late Rebellion.

Monday, November 16.

Mr Sollicitor reports, That the Committee appointed had drawn up an Address to his Majesty; which was read, and agreed to, and is as follows, viz.

" Most Gracious Sovereign,

"We your Majesty's most loyal and faithful Subjects, the Commons, in Parliament assembled, do in the first place (as in duty

duty bound) return your Majesty our most humble and hearty Thanks for your great Care and Conduct in suppressing the late Rebellion, which threatened the Overthrow of this Government both in Church and State, and the utter Extirpation of our Religion as by Law established, which is most dear unto us, and which your Majesty hath been pleased to give us repeated Assurances you will always defend and support; which with all

grateful Hearts we shall ever acknowlege.

"We farther crave leave to acquaint your Majesty, that we have, with all Duty and Readiness, taken into our Consideration your Majesty's gracious Speech to us: And as to that Part of it, relating to the Officers in the Army, not qualified for their Employments, according to an Act of Parliament made in the 25th year of the Reign of your Majesty's Royal Brother, entitled, An Act for preventing Dangers which may happen from Popish Recusants, we do, out of our bounden Duty, humbly represent unto your Majesty, That those Officers cannot by Law be capable of their Employments; and that the Incapacities they bring upon themselves thereby, can no way be taken

off but by an Act of Parliament.

"Therefore, out of that great Deference and Duty we owe unto your Majesty, who have been graciously pleased to take notice of their Services to you, we are preparing a Bill to pass both Houses for your Royal Assent, to indemnify them from the Penalties they have now incurred: And because the continuing of them in their Employments may be taken to be a Dispensing with that Law without Act of Parliament, (the Consequence of which is of the greatest Concern to the Rights of all your Majesty's Subjects, and to all the Laws made for Security of their Religion) we therefore, the Knights, Citizens, and Burgesses, of your Majesty's House of Commons, do most humbly beseech your Majesty, that you would be graciously pleased to give such Directions therein, that no Apprehensions or Jealousies may remain in the Hearts of your Majesty's good and faithful Subjects."

A Motion being made for going to the Lords for their Concur-

rence;

Some debated, "That it would carry with it the greater weight, and be more likely to have good effect; and if the Concurrence of the Lords were asked, the Judges, in the Lords House, would have an opportunity of speaking their Opinion to it."

Others opposed it, " for the Lords having already given their Thanks to the King for his Speech, as being contented therewith,

and that it would be more for the honour of the House of Commons to address alone."

Those that were against the thing itself when it passed first, were for going to the Lords for their Concurrence.

The House divided. For asking Concurrence, 204. Against

it, 216.

So it passed in the Negative. Then the Members of the House that were of his Majesty's Privy-Council, were ordered to know when his Majesty would be pleased to be attended therewith.

The House being resolved into a Committee of the whole House, to consider of a Supply for his Majesty;

Mr Sollicitor took the Chair.

Lord Campden moved " for 200,000l. to be given to the King for a Supply, which, with 200,000l. confessed of what was given for suppressing the late Rebellion, makes 400,000l." and was seconded.

Sir John Ernly.] 1,200,000l. is needful, and fuch a fum has been given before in the same Session, when there was an Address of this kind made to the late King.

Sir Thomas Clarges.] We have this Session already

given Customs and Excises for his Majesty's life:

Additional Duty on Wines, eight years,

Tax on Sugar and Tobacco, eight years,

Tax on Sugar and Tobacco, 200,000l. yearly.

Tax on Linnen and East-India Commodities, five years, 120,000l. yearly.

In all, fix Millions. Let us give little now, to have opportunity to give more another time; for if we give too much now, we shall have nothing left to give; and if we proceed thus, what we have will be taken from us.

Sir Edmund Jennings.] To give 1,200,000l. now, because such a sum has been given, is no Argument; once 2,400,000l. was given here, and therefore should it be so now? 200,000l. with what is already confessed to be in cash, makes 400,000l. and that will maintain the charge one year, and better; and giving all at once is doubting the affection of the people.

Lord

Lord Preston.] You unanimously voted a Supply last night, and naming so little now is not so ingenuous a way of proceeding. We are told, six Millions have been this Session given; I would have you, Gentlemen, take notice, the giving his Majesty what the late King had, is but settling a Revenue that before was not sufficient for the support of the Government; what was given besides, was part for the late King's servants, part for the Fleet and Stores, and part for suppressing the late Rebellion. To give so little now, is not to enable the King to defend and preserve us, which he has promised to do. I am for 1,200,000.

Earl of Ranelagh.] The Question is for 200,000l. or for 1,200,000l. What has been given in this matter already, ought not to be weighed at all; and what is called fix Millions, had all uses (when given) tacked to it.

The Revenue his brother had, had uses enough, as— The Wine and Vinegar Act, rated at yearly 15,000l. For the Fleet, Stores, Ordnance, and Servants.

The Sugar and Tobacco Act, rated at yearly 200,000l.

For the faid Stores, Ordinary, and Fleet-

And the additional Duty on French Linnen and East-India commodities, rated at yearly 120,000l.

For fuppressing the late Rebellion-

So there are uses for all that, and what is now given, must be taken for supporting the forces—And therefore I am for 1,200,000l.

Sir Winston Churchill.] 200,0001. is much too little: Soldiers move not without pay. No Penny, No Pater-

noster.

Mr Ettrick moved for 700,000l. and mentioned to have it raised upon the new Buildings, which might produce 400,000l. and a Poll-Bill for the other 300,000l.

Mr Waller.] If I knew the King's Revenue were short, I would give as far as any man; but now we are going for this particular use, and if this 200,000l. will not do, how can we be sure that 1,200,000l. will?—If we give too little now, hereafter, if we see occasion, we

may

may give more; but if we now give too much, I do not see how we shall ever have it again, though I have heard of such a thing in Queen Elizabeth's time. The King (reckoning what he had of his own into it) has 600,000l. yearly more than the late King had, and when there is need, I am for more, but now only 400,000l. and to raise that easy you will be put to it: How will you do it? If you lay it upon Trade, that will make it Revenue, and when once in the Crown for some time, it will never get out again. I am for only 400,000l.

Lord Campden.] If the King wants 200,000l. I would give him 200,000l. but I am for giving no more than he

really wants.

Mr Waller.] We give, because we are asked. I am for the least sum, because for an Army, and I would be rid of them as soon as I could; and am more now against it than I lately was, being satisfied that the Country is weary of the oppression of the soldiers, weary of free quarters, plunder, and some felons, for which they have no complaint, no redress: And since I heard Mr Blaithwayte tell us, how strict rules were prescribed them by the King, I find by their behaviour, the King cannot govern them himself; and then what will become of us?

Sir Willoughby Hickman.] The Rebellion is suppressed, and the Army is urged to be small, but it is so thick of Officers, that by filling up the Troops, which is easily at any time done, increases their number to a third part more. I am for providing for them but one whole year

only, and only for 400,000l.

Mr Coningshy.] I agree to the 400,000l. We owe befides a duty to our Country, and are bound by that duty
to leave our posterity as free in our Liberties and Properties
as we can; and there being Officers now in the Army,
that have not taken the Test, greatly flats my zeal for it,
and makes me esteem the Militia; which if we well modeled, and placed in mens hands of interest in their Country,
we are certain, and so is the King secure; for there is no
such security of any man's loyalty, as a good estate.
Reasons I have heard given against Armies, that they debauched

bauched the manners of all the people, their wives, daughters, and fervants. Men do not go to Church where they quarter, for fear mischief should be done in their absence. Plough-men and servants quit all Countryemployments to turn foldiers; and then a Court-martial, in time of Peace, is most terrible. In Peace, Justices of it, and the Civil Magistrate, ought to punish, if applied And what occasion then can be for them? Is it to fuppress a Rebellion in time of an Invasion? All then will go towards that. Or is it to affift his Allies? The House will give aid, when wanted, on that score. The Guards I am not against; those showed themselves useful in Venner's business, and the late Rebellion; I am not against them: I only speak of those that have been new raised.

Colonel Albton. I will tell you the use of these forces; they expected the rifing of a great party, and were not these forces standing, to prevent a Rebellion, you would

have one in a few days.

Mr Blaithwayte.] If any diforders have been committed, it is not yet too late to have them redreffed; and Martial-Law (if by that cleared) does not hinder proceeding at Common-Law for the same thing. 400,000l. is not enough; no State near us, in proportion, but what exceeds this small number of men.

Sir Thomas Clarges. | Seven millions of men in England; the strength of men in England consists in our marine, in which (for want of men) France can never equal us; their Trade will not breed them; a ship of 50 tons will carry 100,000l. of their goods, linnen and filks. Ours are bulky goods, and employ twenty times more, unless you (by burdening of Trade) let them into the West-Indies. Armies are not manageable; Commanders have been very often known to rebell: The measure of our Supply is our fecurity. His Majesty's Declaration fays, " If on complaint, the Officers give no redrefs, then complain to the King;" and so Justice is baulked by this hardship put upon the complainant.

* Sir William Trumbull moved to have it temporary from year

* Afterwards Secretary of State to King William.

Sir Christopher Musgrave.] Let it be, to enable his Majesty to preserve us in Peace at home, and to make his Majesty formidable abroad, for 1,200,000l. as a Supply answerable to the loyalty of this House.

Sir Hugh Cholmondeley.] This House was so forward to give last time, that the King's Ministers gave their stop

to it.

Sir John Werden.] The use is to direct the Quantum. I see a present necessity for continuing these Forces, till the Militia is made useful; I am for trying two years, and so for 400,000l. and so leave the door open for coming hither to give another time.

Sir Thomas Meres.] The principle of the Rebel Party is never to repent. I am for 1,200,000l. and if so much be given, I would have you, Gentlemen, to remember

that the Fanatics are the cause of it.

Mr Pepys.] An island may be attacked, notwith-standing any Fleet. Ours is much mended, a thousand men daily at work, ever since we gave Money for it, and not one man in it an Officer, that has not taken the Test.

Colonel Oglethorpe.] New Troops are not so good as old, and more subject to commit disorders, but will be less so, when they are longer under discipline. The King of France never sends Troops to his Army, till they have been two or three years on foot in a garrison.

Sir Thomas Clarges. The Trained-Bands at Newbury

fight did brave things.

Then the Question was, That a sum, not exceeding 400,000l.

should be given to the King.

The previous Question being put, it passed in the Negative, 179 to 167.

Then the Question was put for 700,000l. and no more; which

passed in the Affirmative, 212 to 170.

Refolved, That it is the Opinion of this Committee, That a Supply of 700,000l. be given to his Majesty, and no more.

Which was agreed to by the House with an Amendment, by leaving out the words "and no more," and, instead thereof, inserting these words, "not exceeding the sum."

Tuesday, November 17:

The House resolved into a Committee of the whole House, to consider the way of raising his Majesty's Supply.

Mr North took the Chair.

Sir John Ernly.] I move for an additional Duty upon Wines to yield 400,000l. yearly; and other goods, &c. about 600,000l. yearly, which, with the continuance for fome years of the late Act of imposition on French Linnens, and East-India Silks, &c. might make up the fum; and I propose this way, to avoid a Land-Tax: The goods I propose to be rated, are Soap, Pot-ashes, to pay 7d. to treble; unwrought Silks, Deals, Planks, and other Boards, to double. Raisins and Prunes 25. per Cent. to double. Iron, which now pays 7s. per Cent. Copperas 18s. per Cent. to double. Oyls to 8 or 10 per ton, pay now 30s. Drugs will bear two thirds more than rated. Drugs and Spices from Holland, Salt, and all prohibited goods, 201. per Cent. And this, I hope, may do what is now intended to be raifed at this time, supposing 41. per ton on French Wines.

Sir Dudley North moved much to the same effect, and enlarged on it, and said, The Book of Rates has been well considered, and these Goods are capable of bearing the Duties proposed; but if the King took the 40l. per ton on French Wines at 20,000l. yearly, he would be a

loser by it.

Other Gentlemen infifted on baving French Linnen higher charged. The Pepper that is expended here, paying one penny a pound, might pay one penny more, and so yield 70 or 80,000l. yearly; and that Bullion, exported to the Indies, might bear 51. per Cent. and encourage the fending of other goods (in some measure) instead of it thither.

Sir Richard Temple moved Subfidies, or Land-Tax; but the House inclining to what was first proposed, and it being confented to by the King's Ministers, seemed contented with it; so ir was voted, That an Act for laying an Imposition on French Linnens, East-India Goods, Brandy, &c. should be continued for five years, from Midfummer 1690, and be given to his Ma-

jesty as 400,000l. And that

An additional Imposition of 41. per ton be laid upon all French Wines, on which to be raised 300,000l. which makes up the 700,000l.

The time how long this 41. per ton shall be laid, is not yet determined, an account being first to be brought from the Custom-House Books, of what number of tons are yearly imported: It was said, 100,000 tons; others affirmed, there were near double so many.

The House seemed to incline to eight or ten years, and that the Duties already on it should still continue for the same time; which 41. per ton, with the Duty it already pays, is near 201. per ton.

Wednesday, November 18.

The Speaker acquainted the House, That his Majesty having been yesterday attended, in the Banquetting-House at Whitehall, with the Address of Thanks from this House for his great care and conduct in suppressing the late Rebellion, and likewise concerning the Officers of the Army not qualified for their Employments, he was graciously pleased to return an Answer, to the effect following:

"I did not expect fuch an Address from the House of Commons, having so lately recommended to your consideration the great advantages a good understanding between us had produced in a very short time, and given you warning of Fears and Jealousies amongst ourselves.

"I had reason to hope, that the reputation God hath blessed me with in the World, would have created and confirmed a greater confidence in you of me, and of all that I say to you: But however you proceed on your part, I will be steady in all my promises I have made to you, and be very just to my word in this, and all my other Speeches."

The faid Answer was read with all due reverence and refpect, and there being a profound silence in the House for some time after it.

Mr Wharton moved, That a day might be appointed to confider of his Majesty's Answer to the late Address of this House; and named Friday next.

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Mr Coke stood up, and seconded that Motion, and said, I hope we are all Englishmen, and are not to be frighted out of our duty by a few high words.

Lord Preston took present exceptions against the 'words, which, as is usual, were written down by the Clerk, and Mr Coke was called upon to explain.

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Mr Coke said, "He intended no ill by it; and that he did not believe these the words. And that if he had said any thing that had given the House offence, he was forry, and would ask them pardon for it."

Sir Christopher Musgrave.] It is not enough to say these were not the words, but you are to say what the

words were.

Mr Coke.] I do not make set Speeches: I cannot repeat them; and if they did drop from me, I ask the King and you pardon.

So these being taken for granted to have been the words, Mr Coke, as the custom is in such cases, withdrew into the Speaker's

Chamber.

Sir Joseph Tredenham.] Not our own honour, but the King is concerned in this. I move, that he be brought to the Bar, and there receive a Reprimand from Mr Speaker for it.

Sir Hugh Cholmondeley, a Gentleman of great Loyalty, never before of the House, desired he might have what favour he

could.

7 .

Mr Ashburnham.] It is a great reflection upon this House, if this be let pass.

Several spoke of his Loyalty, but none to excuse him for this.

Lord Preston.] Send him to the Tower!

Lord Middleton.] The meaning of this feems like an Incendiary. The Tower! This needs no aggravation. A Reprimand for an offence to this House might do; but this does not end there; and it is a question whether it be in the power of the House to pass it by, the offence being given to the King as well as you: I am for calling him to the Bar in the first place.

Refolved, That Mr John Coke, a Member of this House, for his indecent and undutiful reflecting on the King and this House, be committed to the Tower. And the Speaker was ordered to

issue his warrant accordingly.

Mr Seymour.] Now this is over, I cannot but consent to those that moved for a day, to consider of his Majesty's Answer, nor think myself as honest as I should be, if I now hold my tongue. And if we do take this matter into consideration, I doubt not but that we shall be-

have

have ourselves with that decency to his Majesty, that we may hope for a more fatisfactory Answer than as yet this feems to be to me.

Sir John Ernly.] I hope that acquiescence that was this morning in this House, on reading his Majesty's Answer, has ended this matter. I do think the King will do all that he promised, and am for resting there.

Sir Thomas Meres moved to adjourn, and faid, " He did not

know what to fay to it."

Sir Thomas Clarges.] For that very Reason I move for a day to consider of it; and I do not think we show that Respect we ought to do to the King, if we do not.

Thursday, November 19.

The Committee appointed to fearch the Custom-House Books, how many tons of French Wines were yearly imported, reported to the House, That 41. per ton laid upon French Wines, would, all deductions allowed, bring in yearly 35,000l.

Mr Sollicitor took the Chair.

And it was thereupon Resolved, That 41. per ton, to be laid on French Wines, for the raising of 300,000l. be continued from the first of December, 1685, yearly, for nine years and a half.

To which the House agreed, and Mr Sollicitor was ordered to bring in a Bill on the Debates of the House, with a Clause of Loan on the faid Imposition of 41. per ton for the faid nine years and a half, from the first of December 1685. And then adjourn-

November 20. The King, by the Usher of the Black-Rod, commanded the House to attend him in the House of Peers, where his Majesty was pleased, by the Lord Chancellor Jeffreys, for many weighty Reasons to prorogue the Parliament to February 10*; when it met, and was farther prorogued to May 10, 1686,

* The King faw, that both Houfes were now fo fixed, that he could carry nothing in either of them, unless he would depart from his Speech, and let the Act of the Test take place: So he prorogued the Parliament, and kept it by repeated Prorogations still on foot

The violent attempts made in the remainder of this Reign to introduce Tyranny both in Church and State, which proved, in the hands of Providence, the happy means of bringing over the Prince of Orange, and settling the Succession in the House of Hanover, will never be for about a year and a half, but forgotten while men retain a love for without holding a Session. Burnet. their Country, and are animated B b 2

from thence to November 22, from thence to February 15. from thence to April 28, 1687, and from thence to November 22, but before that day came the Parliament was diffolved by Proclamation, dated July 2. August 24, 1688, his Majesty declared in Council, that another Parliament should be summoned for November 27, the Writs to bear date September 5. But the Writs were recalled, or not issued, on advice of the Prince of Orange's defigns.

November 29, 1688, King James declared in Council, that a free Parliament should meet September 5; and November 30 a Proclamation was published, that all should have liberty to sit in Parliament notwithstanding their having been in Arms. But on December 30 he ordered the Writs not fent out to be burnt, and the fame night, on his going away, threw the Great-Seal into

to provide a second with the contract of the second with the contract of the second with the s

Contacted and a conflict subject of a particular or a conflict.

the Thames.

mention the Judgments given for the Dispensing Power, the Introduction of a Jesuit to the Council Board, the reception of the

of Tollician read the Chair

And if Andreas and the All and it back

An exact LIST of King James's Parliament, fummoned to meet May 19, 1685; and dissolved by Proclamation July 2, 1686.

Sir JOHN TREVOR, Speaker.

BEDFORDSHIRE.
SIR Villiers Charnock, Bart.
William Boteler.

Bedford.

Thomas Christie, Sir Anthony Chester, Knt.

BERKSHIRE. Sir Humphry Forster, Bart.

Richard Southby.

Reading.

John Breedon, Thomas Coates.

Abingdon.

Sir John Stonhouse, Bart.

New Windsor. William Chiffinch,

Richard Graham.

Wallingford.

John Stone, John Holloway.

Bucks.

John Lord Brackley, Thomas Wharton.

Buckingham.

Sir Richard Temple, Bart. Sir Ralph Verney, Bart.

Chipping Wycomb. Sir Dennis Hampson, Bart.

Edward Baldwyn.

Aylesbury.

Sir William Egerton, Kt. of Bath,

Richard Anderson.

Great Marlow. Sir John Borlace, Bart. Sir Humphry Winch, Bart.

Wendover.

Richard Hampden, John Backwell.

Amersham.

William Cheyne, Sir William Drake, Knt. CAMBRIDGESHIRE.

Sir Levinus Bennet, Bart, Sir Robert Cotton, Knt.

Cambridge University.

Sir Thomas Exton, Knt. LL. D.

Robert Brady, M.D.

Cambridge Town. Sir Thomas Chichley, Knt.

William Wren.

CHESHIRE.

Sir Philip Egerton, Knt. Thomas Cholmondeley,

Chefter.

Sir Thomas Grofvenor, Bart.

Robert Werden.

CORNWALL.

Charles Lord Lansdown, Charles Lord Bodmyn, (removed,)

Francis Roberts (in his room.)

Launcefton.

John Greenville,

Sir Hugh Piper, Knt.

Lefkard.

Chichester Wrey,

John Connock.

Truro.

John Arundel, (of Trerice,)

Henry Vincent.

Bodmyn.

Hon. Hender Roberts,

Nicholas Glynn.

Helfton.

Charles Godolphin,

Sidney Godolphin.

Saltast. Sir Cyril Wych, Knt.

Edmund Waller.

East-Love.

Charles Trelawney, Sir William Trumbull.

B b 3

Wat-

West-Love.

Henry Trelawney, James Kendall.

Grampound.

Sir Joseph Tredenham, Robert Foley.

Camelford.

Nicholas Courtney, Humphry Langford, (dead,) Sir Charles Scarborough.

Penryn.

Henry Fanshaw, Sir Nicholas Slanning.

Tregony.

Charles Trevanion, Charles Porter.

Boffiney.

John Cotton. John Mountsteven.

St. Ives.

Charles Davenant, James St Amand.

Fowev.

Bevil Granville, John Treffry.

St. German's.

Sir Thomas Huggins, Knt. Daniel Elliot.

St Michael's.

Thomas Price, John Vyvyan, jun.

Newport.

William Morice, John Specott.

St Mawes.

Peter Prideaux, Sir Joseph Tredenham, (waved,)

Henry Seymour, jun.

Callington.

Sir John Coryton, Bart. William Coryton.

CUMBERLAND. Richard Viscount Preston,

Sir John Lowther, Bart.

Carlifle City. Sir Christopher Musgrave, Knt. lames Graham.

Cockermouth.

Sir Orlando Gee, Knt. Sir Daniel Fleming, Knt. DERBYSHIRE,

Sir Robert Coke, Bart. Sir Gilbert Clarke, Knt.

Derby.

John Coke, William Allestrey.

DEVONSHIRE.

Sir Bouchier Wrey, Bart. Sir Copleston Bampfylde, Bart.

Albburton. William Stawell, Edward Yard.

Tiverton.

Sir Hugh Ackland, Bart. William Coleman.

Dartmouth.

Roger Pomeroy, Arthur Farewell.

Oakhampton.

Sir Simeon Leach, Kt. of Bath.

William Cary.

Honiton.

Sir Thomas Putt, Bart. Edmund Walrond.

Plymouth.

Barnard Greenville,

Richard Earl of Ranelagh. Beeralfton.

Sir John Maynard, Knt. Sir Benjamin Bathurft, Knt.

Plympton.

Richard Strode,

Sir Christopher Wren, Knt. Totness.

Sir Edward Seymour, Bart. John Kellond.

Barnstaple.

Sir Arthur Chichester, Bart. John Bassett.

Tavistock.

Sir James Butler, Knt. John Beare.

Exeter City.

James Walker, Mayor, Edward Seymour.

DORSETSHIRE.

Thomas Strangways, Thomas Freke.

Dorchester.

Dorchefter.

Edward Miller, William Churchill.

Lyme-Regis.

John Pole,

Sir Winston Churchill, Knt.

Weymouth.

Sir John Morton, Bart.

Henry Henninge.

Melcombe-Regis.

George Strangways, Francis Mohun.

Bridport.

Hugh Hodges, Thomas Chafe.

Shaftsbury.

Sir Henry Butler, Knt. John Bowles.

Wareham.

Thomas Erle, George Ryves.

Corfe Caftle.

Sir Nathaniel Napier, Bart. Richard Fownes.

Pool.

Thomas Chafin, William Ettrick.

DURHAM.

Robert Byerly,

William Lambton.

Durham City.

Charles Montagu,

Sir Richard Lloyd, Knt.

EBOR, or YORKSHIRE.

Charles Lord Clifford, Sir John Kaye, Bart.

Aldborough.

Sir Michael Wentworth, Knt. Sir Roger Strickland, Knt.

Borough-Bridge.

Sir Thomas Mauleverer, Bart. Sir Henry Goodrick, Bart.

Beverley.

Michael Wharton, Sir Ralph Wharton, Knt.

Heyden.

Henry Guy, Charles Duncombe. Knaresborough.

Henry Slingsby, William Stockdale.

Malton.

Thomas Fairfax,

Thomas Worsley.

North Allerton.

Sir David Fowlis, Bart. Sir Henry Marwood, Bart.

Pontefract.

John Viscount Downe,

Sir Thomas Yarborough, Knt.

Richmond.

Hon. John D'Arcy,

Humphry Wharton.

Rippon.

Gilbert Dolben,

Sir Edmund Jennings, Knt.

Scarborough.

Sir Thomas Slingsby, Bart.

William Osbaldiston.

Thirsk.

Sir Hugh Cholmondeley, Bart.

Thomas Frankland.

York City.

Sir John Rerelby, Bart.

Sir Metcalf Robinson, Bart.

Kingston upon Hull.

Sir Willoughby Hickman, Bart. John Ramiden.

Essex.

Sir William Maynard, Bart.

Sir Thomas Fanshaw, Knt.

Colchester.

Sir Walter Clarges, Bart.

Nathaniel Lawrence.

Malden.

Sir John Bramston, Kt. of Bath.

Sir Thomas D'Arcy, Bart.

Harwich.

Sir Anthony Deane, Knt.

Samuel Pepys.

GLOUCESTERSHIRE.

Charles Marquess of Worcester, Sir Robert Atkyns, jun. Knt.

Tenukefbury.

Sir Francis Russel, Bart.

Richard Dowdefwell.

Bb 4 Cirencefter.

Cirencester.

Thomas Master, Charles Earl of Newburgh.

Gloucester City.

John Wagstaffe, John Powell.

HEREFORDSHIRE.

Sir John Morgan, Bart. Sir John Hoskins, Bart.

Hereford City.

Herbert Aubry, Thomas Geers.

Leominster.

Thomas Coningfby, Robert Cornwall,

Weobly.

Henry Cornwall, Robert Price.

HERTFORDSHIRE.

Ralph Freeman, Thomas Halfey.

Hertford Town. Sir Francis Boteler, Knt.

Sir Thomas Byde, Knt.

St Albans.

Captain George Churchill, Thomas Dockwray.

HUNTINGDONSHIRE. Sir John Cotton, Bart. Sir Lionel Walden, Knt.

Huntingdon Town.

Lionel Walden, Oliver Montagu.

Кент. Sir William Twyfden, Bart. Sir John Knatchbull, Bart.

Rochester City.

Sir John Banks, Bart. Sir Francis Clarke, Knt.

Queenborough. Sir John Godwyn, Knt.

Caleb Banks.

Maidstone.

Edward Waytt, Serjeant at Law, Sir John Tuffton, Bart. (dead) Archibald Clincard. Canterbury City.
Sir William Honywood, Bart.
Henry Lee.

LANCASHIRE. Sir Roger Bradshaw, Bart. James Holt.

Lancaster Town.

Henry Crifpe, Roger Kirkby.

Preston.
Sir Thomas Chichley, Knt.
Andrew Newport, (dead)
Edward Fleetwood.

Liverpool.
Sir Richard Atherton, Knt.
Thomas Leigh.

Wigan.
Charles Earl of Ancram,
Charles Lord Murray.
Clithero.

James Stanley, Edward Ashton.

Newton.

Thomas Done, William Blaithwaite.

LEICESTERSHIRE. Bennet Lord Sherrard, Hon. John Verney.

Lescester Town. Sir Henry Beaumont, Bart. Thomas Babington.

LINCOLNSBIRE. George Visc. Castleton, Sir Thomas Hussey, Bart.

Stamford.
Peregrine Bertie,
Charles Bertie.

Grantham. Thomas Harrington, John Thorold.

Boston.
Robert Lord Willoughby,
Hon. Peregrine Bertie.

Great Grimfby.
Sir Edward Ayscough, Knt.
Sir Thomas Barnardiston, Bart.
Lincoln

Lincoln City.
Sir Thomas Meres, Knt.
Sir Henry Monson, Bart.

MIDDLESEX. Sir Charles Gerrard, Bart.

Ralph Hawtry.

Westminster City.

Charles Benython, Michael Arnold.

London City.
Sir John Moore, Knt.
Sir William Pritchard, Knt.
Sir Samuel Dashwood, Knt.
Sir Peter Rich, Knt.

MONMOUTHSHIRE. Charles Marquess of Worcester, Sir Charles Kemeys, Bart.

Monmouth.

Marquess of Worcester, (waved)
Sir James Herbert, Bart.

NORFOLK. Sir Thomas Hare, Bart. Sir Jacob Astley, Bart.

Lynn Mgis. Sir Simon Taylor, Knt. Sir John Turner, Knt.

Great Yarmouth.
Sir William Cooke, Bart.

John Friend.

Thetford.
William De Grey,
Henry Hevingham (removed)
Sir Joseph Williamson, Knt.

Castle-rising.
Sir Nicholas L'Estrange, Bart.
Thomas Howard.

Norwich City.

Robert Paston, Sir Nevile Catelyn, Knt.

NORTHAMPTONSHIRE. Sir Roger Norwich, Bart, Edward Montagu.

Peterborough City. Charles Fitzwilliam, Charles Orme.

Northampton Town. Sir Justinian Isham, Bart. Richard Rainsford. Brackley.
Sir Richard Wenman, Bart.

James Griffin.

Higham-Ferrers.

Sir Lewis Palmer, Bart.

NORTHUMBERLAND. Sir John Fenwick, Bart.

William Ogle.

Morpeth.
Sir Henry Puckering, Bart.
Theophilus Oglethorpe.

Newcastle upon Tyne.
Sir William Blacket, Bart.
Sir Nathaniel Johnson, Knt.
Berwick upon Tweed.

Philip Bickerstaffe, Ralph Widdrington.

NOTTING HAMSHIRE. Sir William Clifton, Bart. Reason Mellish.

East-Retford.
Sir Edward Neville, Bart.
John Millington, Serj. at Law.
Newark upon Trent.

Henry Saville, Philip D'Arcy.

Nottingham Town.

John Beaumont,
Sir William Stanhope, Knt.

Oxfordshire. Anthony Vife, Falkland,

Thomas Tipping.

Oxford University.

Sir Lionel Jenkins, Knt.

Charles Perrot, LL. D.
Oxford City.

Henry Bertie,

Sir George Pudsey, Knt. New Woodstock.

Richard Bertie,

Sir Littleton Osbaldiston.

Banbury.

Sir Dudley North, Knt. RUTLANDSHIRE.

Baptist Noel,

Sir Thomas Mackworth, Bart.

SHROPSHIRE. Edward Kynaston, (of Otley) JohnWalcott.

Shrewfbury.

Lift of King JAMES'S Parliament.

Shrewfbury. Edward Kynaston. Sir Francis Edwards, Bart. Henry Slingfby. Ludlow. Sir Edward Herbert, Knt.

William Charlton, (dead) Sir Josiah Child, Knt. Bridgnorth.

Sir William Whitmore, Bart. Roger Pope.

Wenlock. Thomas Lawley,

George Weld.

. Bishops-Caftle. Edmund Waring,

Francis Charlton. SOMERSETSHIRE. Sir John Smith, Bart.

George Horner. Taunton.

Sir William Portman, Bart. John Sandford.

Ilchefter. Sir Edward Wyndham, Bart. Sir Edward Philips, Knt. Milborn-Port.

John Hunt, Henry Bull.

Wells City. Thomas Wyndham, Edward Berkeley.

Bridgewater. Sir Francis Warre, Bart. Sir Halfwell Tynte, Bart. Bath City.

Maurice Visc. Fitzharding, Sir William Baffet, Knt. Minebead.

Francis Lutterell, Nathaniel Palmer.

Briftol City. Sir John Churchill, Knt. Sir Richard Crump, Knt. SOUTHAMPTON or HAMPSHIRE. Sir Charles Wyndham, Knt. Sir Benjamin Newland, Knt.

Winchester City. Roger L'Estrange, Charles Hanfeys.

Portfmouth. William Legge,

> Newport. Sir Robert Holmes, Knt. Sir William Stevens, Knt. Yarmouth.

Thomas Wyndham, William Hewer.

Newtown.

Thomas Done, William Blaithwaite. Lymington.

Richard Holt, John Burrard.

Christ Church. Sir Thomas Clarges, Knt. Anthony Ettrick.

Andover. Sir John Collins, Knt. Robert Philips.

Whitchurch. Henry Wallop,

James Ruffell. Petersfield. Sir John Norton, Bart.

Thomas Bilfon. Stockbridge.

John Head. Effex Strode.

Southampton Town. Sir Charles Wyndham, Knt. Sir Benjamin Newland, Knt.

STAFFORDSHIRE. Sir Walter Bagot, Bart.

Edward Littleton. Stafford Town.

Walter Chetwynd, Rowland Okeover,

Tamworth.

Richard Howe, Sir Henry Gough, Knt. Newcastle under Line.

Edward Maynwaring, William Sneyd, junior. Litchfield City.

Thomas Orme, Richard Leveson.

SUFFOLK.

S

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SUFFOLK. Sir Robert Brooke, Bart. Sir Henry North, Bart.

Ip/wich.

Sir John Barker, Bart.

Sir Nicholas Bacon, Kt. of Bath.

Dunwich.

Roger North, Thomas Knyvett.

Orford.

Lionel Lord Huntingtower, Thomas Glemham.

Aldborough.

Henry Bedingfield, King's Serj.

John Bence.

Sudbury.

Sir John Cardelle, Bart. Sir George Weneive, Knt.

Sir Charles Gaudy, Bart.

Sir John Rous, Bart.

Bury St. Edmunds. Sir Thomas Hervey, Knt. William Crofts.

SURRY.

Sir Adam Brown, Bart. Sir Edward Evelyn, Bart.

Gatton.

Sir Thomas Thomson, Bart.

Thomas Turgis.

Hastemere.

Sir George Vernon, Knt.

Sir George Woodrooffe. Blechingly.

Ambrose Brown,

Sir Marmaduke Gresham, Bart.

Ryegate.

Sir John Werden, Bart.

John Parsons.

Guildford.

Hon. Hen. Finch, Sollicitor Gen.

Richard Onflow.

Southwark.

Sir Peter Daniel, Knt.

Anthony Bowyer.

SUSSEX.

Sir Henry Goring, Bart.

Sir Thomas Dyke, Bart.

Horfbam. Anthony Eversfield,

John Michell.

Bramber.

Sir Thomas Bludworth, Knt.

William Bridgman.

New Shoreham.

Sir Edw. Hungerford, Kt. of Bath.

Sir Richard Haddock, Knt.

Midhurft.

Sir William Morley, Kt. of Bath. John Lewknor.

East-Grinstead.

Simon Smith. Thomas Jones.

Steyning.

Sir John Fagg, Bart.

Sir Henry Goring, (dead)

Sir James Morton, Knt.

Arundel.

William Garroway, William Westbroke.

Thomas Pelham,

Richard Bridger. Chichester City.

Sir Richard May, Knt. Recorder,

George Gunter.

WARWICKSHIRE.

Sir Charles Holt, Bart.

Richard Verney.

Warwick Town.

Simon Lord Digby,

Thomas Coventry.

Coventry City.

Sir Roger Cave, Bart.

Sir Thomas Norton, Bart.

WESTMORLAND.

Sir John Lowther, Bart.

Allan Bellingham.

Appleby.

Hon. Sackville Tufton,

Philip Musgrave.

WORCESTERSHIRE.

Sir John Packington, Bart.

James Pitts.

Evesham.

Henry Parker,

Sir John Matthews, Knt.

Droitwich.

Drottwich.

Thomas Windfor, Samuel Sandys, jun.

Bewdley.

Sir Charles Lyttleton, Knt.

Worcester City.

William Bromley, Bridges Nanfan.

Wilt bire.

Edward Viscount Cornbury, Thomas Lord Bruce.

New Sarum City.

Sir Stephen Fox, Knt. John Wyndham.

Devizes.

Sir John Talbot, Knt.

Walter Grub.

Marlborough.

Sir J. Ernly, Chanc. of the Excheq.

George Willoughby.

Chippenham. Henry Baynton,

Sharrington Talbot, (dead)

Richard Kent.

Calne.

Sir John Ernly, Knt. Thomas Webb.

Malmsbury.

Sir Thomas Estcourt, Knt. John Fitzherbert.

Cricklade.

Charles Fox,

Thomas Freake, (discharged)

Edmund Webb.

Hindon.

Robert Hyde,

Thomas Lambert.

Old Sarum.

Sir Eliab Harvey, Knt.

Sir Thomas Mompesson, Knt.

Heytefoury.

William Afh,

Edward Ash.

Westbury.

Richard Lewis,

James Herbert.

Wotton Baffet.

Henry St John, John Pleydell. Ludgarsball.

Thomas Neale, Henry Clarke.

Wilton.

Sir John Nicholas, Knt. of Bath. Oliver Nicholas.

Downton.

Sir Charles Raleigh, Knt. Maurice Bockland.

Great Bedwin.

Lemuel Kingdon, Thomas Lowder.

CINQUE PORTS.

Hastings.

Sir Dennis Ashburnham, Bart.

John Ashburnham.

Sandwich.

John Strode,

John Pepys, (waved)

Philip Parker.

Dover.

Arthur Herbert,

William Chapman.

New Romney. Thomas Chudleigh,

Sir Benjamin Bathurft, Knt. (wa-

ved.)

Hythe.

Heneage Finch, Julius Deedes, (discharged)

William Shaw.

Rye.

Sir Thomas Jenner,

Thomas Frewen. Winchelsea.

Charles Earl of Middleton,

Creskeld Draper.

Scaford.

Sir William Thomas, Bart.

Sir Edward Selwyn, Knt.

WALES.

ANGLESEA.

Robert Viscount Bulkeley.

Beaumaris.

Henry Bulkeley.

BRECONSHIRE.

Charles Marq. of Worcester, (wa-Edward Jones. wed.)

Brecon.

Brecon Town.

Charles Marq. of Worcester, (wa-John Jeffreys. ved.)

CARDIGANSHIRE.

John Lewis.

Cardigan Town.

Hector Philips.

CARMARTHENSHIRE.

John Lord Vaughan.

Carmarthen Town.

Richard Vaughan.

CARNARVONSHIRE.

Thomas Bulkeley.

Carnarvon Town.

John Griffith, (dead)

DENBIGHSHIRE.

Sir Richard Middleton, Bart.

Denbigh Town.

Sir John Trevor, Knt. SPEAKER.

FLINTSHIRE.

Sir John Conway, Bart.

Flint Town.

Sir John Hanmer, Bart.

GLAMORGANSHIRE. Sir Edward Mansel, Bart.

Cardiff.

Francis Gwynn.

MERIONETHSHIRE.

Sir John Wynn.

MONTGOMERYSHIRE.

Edward Vaughan.

Montgomery Town.
William Williams (removed)

Charles Herbert.

PEMBROKESHIRE.

William Barlow.

Pembroke Town.

Arthur Owen,

Haverford-Weft.

William Wogan.

RADNORSHIRE.

Richard Williams.

Radnor Town.

Owen Wynn, Serj. at Law.

END of VOL. VIII.